

K. LEGAL OPINIONS



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June 22, 2006

DEPFA Bank plc,
as the Administrative Agent, a Lender and a Mandated Lead Arranger
1 Commons Street
Dublin 1
Ireland

Wells Fargo Bank, N.A.
as the Collateral Agent
9062 Old Annapolis Road
Columbia, MD 21045

Bayerische Hypo- und Vereinsbank AG, New York Branch
as a Lender and a Mandated Lead Arranger
150 East 42nd Street
New York, NY 10017

Banco Espirito Santo, S.A.
as a Lender
Project Finance Division
33 Queen Street, London, EC4R 1ES
United Kingdom

Banco Espirito Santo de Investimento, S.A.
as a Mandated Lead Arranger
Project Finance Division
33 Queen Street, London, EC4R 1ES
United Kingdom

Re: Transurban (895) US Holdings

Ladies and Gentlemen:

We have acted as special counsel to Transurban (895) US Holdings LLC, a Delaware limited liability company (the "Borrower"), in connection with the transactions contemplated by the Loan Agreement, dated as of June 22, 2006 (the "Loan Agreement"), among the Borrower, the several banks and financial institutions party thereto (the "Lenders"), DEPFA Bank plc, as administrative agent for the Lenders (in such capacity, the "Administrative Agent"), and Bayerische Hypo- und Vereinsbank AG, New York Branch, Banco Espirito Santo de Investimento, S.A., and DEPFA Bank plc, as Mandated Lead Arrangers. Unless otherwise defined herein, all capitalized terms used herein without definition shall have the meanings assigned to them in the Loan Agreement.



In connection with the opinions set forth below we have examined executed originals or copies of the Loan Agreement and the following documents:

- (a) the Collateral Agency Agreement;
- (b) the Security Agreement;
- (c) the Hedging Agreement; and
- (d) the Affiliate Subordinated Note.

The Loan Agreement and the other documents listed in clauses (a) through (d) above are referred to in this opinion letter collectively as the "Loan Documents." In addition, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, records, certificates and other instruments as we have deemed necessary or appropriate for the basis of the opinions expressed below. Insofar as the opinions set forth below relate to factual matters, we have relied upon representations of the Borrower contained in the Loan Documents and certificates of officers of the Borrower, public officials and other appropriate persons.

With your permission we have assumed the following: (a) the authenticity of original documents and genuineness of all signatures; (b) the conformity to the originals of all documents submitted to us as copies; (c) the truth, accuracy and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed; (d) except as specifically covered in the opinions set forth below, (i) the parties to the Loan Documents have all requisite power and authority, and in the case of individuals, the capacity, to execute and deliver the Loan Documents, (ii) the due authorization, execution and delivery of the Loan Documents on behalf of such parties, and (iii) the legal, valid and binding effect thereof on such parties; (e) the absence of any evidence extrinsic to the provisions of the written agreements between the parties that the parties intended a meaning contrary to that expressed by those provisions.

1. The Borrower is a limited liability company duly formed, validly existing and in good standing under the law of the State of Delaware and has the limited liability company power to execute, deliver and perform its obligations under the Loan Documents, and to borrow the Loans under the Loan Agreement.

2. The Borrower has taken all necessary limited liability company action to authorize the execution, delivery and performance by the Borrower of the Loan Documents.

3. The Borrower has duly executed and delivered the Loan Documents.

4. Each of the Loan Documents constitutes the valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms.



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Our opinion that any agreement is valid, binding or enforceable in accordance with its terms is qualified as to:

- (a) limitations imposed by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, or other laws relating to or affecting the rights of creditors generally;
- (b) rights to indemnification and contribution which may be limited by applicable law and equitable principles;
- (c) the unenforceability under certain circumstances of provisions imposing penalties, forfeiture, late payment charges, or an increase in interest rate upon delinquency in payment or the occurrence of any event of default; and
- (d) general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing, and the possible unavailability of specific performance or injunctive relief, regardless of whether such enforceability is considered in a proceeding in equity or at law.

Insofar as our opinion that any agreement is legal, valid, binding and enforceable pertains to the parties' agreement that the law of the State of New York shall be the governing law of such agreement, our opinion is based solely of Section 5-1401 of the New York General Obligations Law. We express no opinion as to the validity of such statute under the Constitution of the United States of America, particularly in circumstances where an agreement bears no reasonable relation to the State of New York.

We express no opinion herein as to laws other than the law of the State of New York and the Limited Liability Company Act of the State of Delaware. As you know we are not licensed to practice law in the State of Delaware, and our opinions herein as to such law are based solely on our review of standard compilations of the Limited Liability Company Act of the State of Delaware. We express no opinion to the extent that the law of any jurisdiction other than those identified above are applicable to the Loan Documents or the transactions contemplated thereby.

This opinion letter is solely for your benefit and the benefit of the Secured Parties in connection with the transaction described in the first paragraph of this opinion letter and may not be relied upon, used, quoted, or referred to by, nor may copies hereof be delivered to, any other person without our prior written approval. We disclaim any obligation to update this opinion letter for events occurring or coming to our attention after the date hereof.

Very truly yours,

Orrick, Harington & Sutcliffe LLP



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June 29, 2006

To the Parties Listed
on Schedule I hereto

Re: Transurban (895) US Holdings

Ladies and Gentlemen:

We have acted as special counsel to Transurban (895) US Holdings LLC, a Delaware limited liability company (the "Borrower"), Transurban (895) LLC, a Delaware limited liability company ("T895"), Transurban (895) Holdings, Ltd., a Bermuda limited liability company ("T-Holdings"), Transurban (895) Finance, Inc., a Delaware corporation ("T-Finance"), and Transurban (895) General Partnership, a Delaware general partnership (the "Member"), in connection with the transactions contemplated by the Loan Agreement, dated as of June 22, 2006 (the "Loan Agreement"), among the Borrower, the several banks and financial institutions party thereto (the "Lenders"), DEPFA Bank plc, as administrative agent for the Lenders (in such capacity, the "Administrative Agent"), and Bayerische Hypo- und Vereinsbank AG, New York branch, Banco Espirito Santo, S.A., and DEPFA Bank plc. The Borrower, T895, T-Holdings, T-Finance, and the Member are sometimes referred to herein collectively as the "Borrower Parties." Terms used herein that are defined in the New York Uniform Commercial Code (the "NYUCC") or the Delaware Uniform Commercial Code (the "DUCC") and not otherwise defined herein shall have the meanings set forth in the NYUCC or the DUCC, as applicable. Unless otherwise defined herein, all capitalized terms used herein without definition shall have the meanings assigned to them in the Loan Agreement.

In connection with the opinions set forth below we have examined executed originals or copies of the Loan Agreement and the following documents:

- (a) the Collateral Agency Agreement;
- (b) the Security Agreement;
- (c) the Guaranty and Security Agreement;
- (d) the Member Pledge Agreement;
- (e) the ISDA Master Agreement, dated as of June 22, 2006, between the Borrower and DEPFA Bank plc ("DEPFA"), the related Schedule to the ISDA Master Agreement, dated as of June 22, 2006, between the Borrower and DEPFA, and the related Confirmation, dated as of June 26, 2006, between the Borrower and DEPFA;



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(f) the ISDA Master Agreement, dated as of June 22, 2006, between the Borrower and Banco Espirito Santo, S.A. ("BES"), the related Schedule to the ISDA Master Agreement, dated as of June 22, 2006, between the Borrower and BES, and the related Confirmation, dated as of June 26, 2006, between the Borrower and BES;

(g) the ISDA Master Agreement, dated as of June 22, 2006, between the Borrower and Bayerische Hypo- und Vereinsbank AG ("BHV"), the related Schedule to the ISDA Master Agreement, dated as of June 22, 2006, between the Borrower and BHV, and the related Confirmation, dated as of June 26, 2006, between the Borrower and BHV;

(h) the Intercompany Loan Agreement;

(i) the Affiliate Subordinated Note;

(j) the Demand Note;

(k) the TFC Guarantee;

(l) the ARCA;

(m) the Asset Purchase Agreement;

(n) the Arrangement Fee Letter dated as of June 22, 2006, among the Borrower, DEPFA Bank PLC, Bayerische Hypo-Und Vereinsbank AG, New York Branch and Banco Espirito Santo, S.A.;

(o) the Underwriting Fee Letter dated as of June 22, 2006 among the Borrower, DEPFA Bank PLC and Bayerische Hypo-Und Vereinsbank AG, New York Branch;

(p) the Global Fee Sharing Agreement Letter dated as of June 22, 2006 among the Borrower, DEPFA Bank PLC, Bayerische Hypo-Und Vereinsbank AG, New York Branch, and Banco Espirito Santo, S.A.;

(q) the Administrative Agent's Fee Letter dated as of June 22, 2006 between the Borrower and the Administrative Agent; and

(r) the financing statement attached hereto (the "Borrower Financing Statement") naming the Borrower, as debtor, and the Collateral Agent, as Secured Party; the financing statement attached hereto (the "Member Financing Statement") naming the Member, as debtor, and the Collateral Agent, as Secured Party; the financing statement attached hereto (the "T-



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Holdings Financing Statement") naming T-Holdings, as debtor, and the Collateral Agent, as Secured Party; the financing statement attached hereto (the "T-Finance Financing Statement") naming T-Finance, as debtor, and the Collateral Agent, as Secured Party; and the financing statement attached hereto (the "T895 Financing Statement") naming T895, as debtor, and the Collateral Agent, as Secured Party.

The Loan Agreement and the other documents listed in clauses (a) through (q) above are referred to in this opinion letter collectively as the "Transaction Documents". In addition, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, records, certificates and other instruments as we have deemed necessary or appropriate for the basis of the opinions expressed below. Insofar as the opinions set forth below relate to factual matters, we have relied upon representations of the Borrower contained in the Transaction Documents and certificates of officers of the Borrower, public officials and other appropriate persons.

With your permission we have assumed the following: (a) the authenticity of original documents and genuineness of all signatures; (b) the conformity to the originals of all documents submitted to us as copies; (c) the truth, accuracy and completeness of the information, representations and warranties contained in the records, documents, instruments and certificates we have reviewed; (d) except as specifically covered in the opinions set forth below, (i) the parties to the Transaction Documents have all requisite power and authority, and in the case of individuals, the capacity, to execute and deliver the Transaction Documents, (ii) the due authorization, execution and delivery of the Transaction Documents on behalf of such parties, and (iii) the legal, valid and binding effect thereof on such parties; (e) the absence of any evidence extrinsic to the provisions of the written agreements between the parties that the parties intended a meaning contrary to that expressed by those provisions; (f) none of the Borrower Parties is a securities intermediary, broker, or commodity intermediary; (g) Wells Fargo Bank, N.A. (the "Bank") is a bank; (h) none of the Borrower Parties controls the Bank, is controlled by the Bank or is under common control with the Bank; and (i) Wells Fargo Bank, N.A. (the "Securities Intermediary") is a securities intermediary that is acting in that capacity with respect to the Collateral.

Subject to the foregoing, and to the qualifications and limitations set forth below, we are of the following opinion.

1. The Borrower is a limited liability company duly formed, validly existing and in good standing under the law of the State of Delaware and has the limited liability company power to execute, deliver and perform its obligations under the Transaction Documents to which it is a party, and to borrow the Loans under the Loan Agreement.



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2. T895 is a limited liability company duly formed, validly existing and in good standing under the law of the State of Delaware and has the limited liability company power to execute, deliver and perform its obligations under the Transaction Documents to which it is a party.

3. T-Finance is a Delaware corporation duly organized, validly existing and in good standing under the law of the State of Delaware and has the corporate power to execute, deliver and perform its obligations under the Transaction Documents to which it is a party.

4. The Member is a general partnership duly formed, validly existing and in good standing under the laws of the State of Delaware and has the partnership power to execute, deliver and perform its obligations under the Transaction Documents to which it is a party.

5. The Borrower has taken all necessary limited liability company action to authorize the execution, delivery and performance by the Borrower of the Transaction Documents to which it is a party.

6. T895 has taken all necessary limited liability company action to authorize the execution, delivery and performance by T895 of the Transaction Documents to which it is a party.

7. T-Finance has taken all corporate action necessary to authorize the execution, delivery and performance by the T-Finance of the Transaction Documents to which it is a party.

8. The Member has taken all necessary partnership action to authorize the execution, delivery and performance by the Member of the Transaction Documents to which it is a party.

9. Each of the Borrower, T895, T-Finance, and the Member has duly executed and delivered each of the Transaction Documents in which it is stated to be a party.

10. Each of the Transaction Documents in which the Borrower is stated to be a party and which is stated to be governed by the laws of the State of New York (other than the Notes and the Affiliate Subordinated Note) constitutes the valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms.

11. Each Note delivered on the date hereof and the Affiliate Subordinated Note will, upon disbursement of the loans evidenced thereby, constitute a valid and legally binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms.



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12. Each of the Transaction Documents in which T895 is stated to be a party and which is stated to be governed by the laws of the State of New York constitutes the valid and binding obligation of T895, enforceable against T895 in accordance with its terms.

13. Each of the Transaction Documents in which T-Finance is stated to be a party and which is stated to be governed by the laws of the State of New York constitutes the valid and binding obligation of T-Finance, enforceable against T-Finance in accordance with its terms.

14. Each of the Transaction Documents in which T-Holdings is stated to be a party and which is governed by the laws of the State of New York constitutes the valid and binding obligation of T-Holdings, enforceable against T-Holdings in accordance with its terms.

15. Each of the Transaction Documents in which the Member is stated to be a party and which is governed by the laws of the State of New York constitutes the valid and binding obligation of the Member, enforceable against the Member in accordance with its terms.

16. The execution and delivery by the Borrower of the Transaction Documents to which it is a party do not, and the performance by it of its obligations thereunder and the borrowing of the Loans under the Loan Agreement will not, (a) result in a violation of the certificate of formation of the Borrower or the Limited Liability Company Agreement of the Borrower or (b) result in a violation of (i) any Governmental Rule of the United States or the State of New York applicable to it or to any of its properties or assets or (ii) the Limited Liability Company Act of the State of Delaware, (c) breach or result in a default under or result in the acceleration of or entitle any Person to accelerate any indebtedness of the Borrower under any of the Material Project Documents to which it is a party, or result in a violation of any court orders known to us, or (d) require any approval, authorization, consent or other action of, notice to, qualifications or filing with, any governmental authority of the State of New York except such filings as may be required to perfect any security interest or to put third parties on notice of any lien.

17. The execution and delivery by T895 of the Transaction Documents to which it is a party do not, and the performance by it of its obligations thereunder and the ownership by it of the Ownership Interest (as defined in the ARCA) and the operation by it of the Project as contemplated by the Material Project Documents will not, (a) result in a violation of the certificate of formation of T895 or the Limited Liability Company Agreement of T895 or (b) result in a violation of (i) any Governmental Rule of the United States or the State of New York applicable to it or to any of its properties or assets or (ii) the Limited Liability Company Act of the State of Delaware, or (c) breach or result in a default under or result in the acceleration of or entitle any Person to accelerate any indebtedness of T895 under any of (i) the ARCA or (ii) the other Material Project Documents to which it is a party, or result in a violation of any



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court orders known to us, or (d) require any approval, authorization, consent or other action of, notice to, qualifications or filing with, any governmental authority of the State of New York except such filings as may be required to perfect any security interest or to put third parties on notice of any lien.

18. The execution and delivery by T-Finance of the Transaction Documents to which it is a party do not, and the performance by it of its obligations thereunder will not, (a) result in a violation of its certificate of incorporation or by-laws or (b) result in a violation of (i) any Governmental Rule of the United States or the State of New York applicable to it or to any of its properties or assets or (ii) the General Corporation Law of the State of Delaware, or (c) breach or result in a default under or result in the acceleration of or entitle any Person to accelerate any indebtedness of T-Finance under any of the Material Project Documents to which it is a party, or result in a violation of any court orders known to us, or (d) require any approval, authorization, consent or other action of, notice to, qualifications or filing with, any governmental authority of the State of New York except such filings as may be required to perfect any security interest or to put third parties on notice of any lien.

19. The execution and delivery by T-Holdings of the Transaction Documents to which it is a party do not, and the performance by it of its obligations thereunder will not, (a) result in a violation of (i) any Governmental Rule of the United States or the State of New York applicable to it or to any of its properties or assets or (ii) the Limited Liability Company Act of the State of Delaware, or (b) breach or result in a default under or result in the acceleration of or entitle any Person to accelerate any indebtedness of T-Holdings under any of the Material Project Documents to which it is a party, or result in a violation of any court orders known to us, or (c) require any approval, authorization, consent or other action of, notice to, qualifications or filing with, any governmental authority of the State of New York except such filings as may be required to perfect any security interest or to put third parties on notice of any lien.

20. The execution and delivery by the Member of the Transaction Documents to which it is a party do not, and the performance by it of its obligations thereunder will not, (a) result in a violation of the General Partnership Agreement of the Member or (b) result in a violation of (i) any Governmental Rule of the United States or the State of New York applicable to it or to any of its properties or assets or (ii) the Revised Uniform Partnership Act of the State of Delaware, or (c) breach or result in a default under or result in the acceleration of or entitle any Person to accelerate any indebtedness of the Member under any of the Material Project Documents to which it is a party or result in a violation of any court orders known to us, or (d) require any approval, authorization, consent or other action of, notice to, qualifications or



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filing with, any governmental authority of the State of New York except such filings as may be required to perfect any security interest or to put third parties on notice of any lien.

21. The Security Agreement creates in favor of the Collateral Agent a security interest under the NYUCC in the rights of the Borrower in the Collateral (as defined therein).

22. The Guarantee and Security Agreement creates in favor of the Collateral Agent a security interest under the NYUCC in the rights of T895, T-Holdings, and T-Finance in the Collateral (as defined therein).

23. The Member Pledge Agreement creates in favor of the Collateral Agent a security interest under the NYUCC in the rights of the Member in the Pledged Collateral (as defined therein).

24. Upon the effective filing of the Borrower Financing Statement with the Delaware Secretary of State, the security interest created by the Security Agreement in the Borrower's rights in the Collateral (as defined therein) will be perfected under the DUCC in such of the Collateral described in the Borrower Financing Statement in which a security interest may be perfected by the filing of a financing statement with the Delaware Secretary of State under the DUCC.

25. Upon the effective filing of the Member Financing Statement with the Delaware Secretary of State, the security interest created by the Member Pledge Agreement in the Member's rights in the Pledged Collateral (as defined therein) will be perfected under the DUCC in such of the Pledged Collateral described in the Member Financing Statement in which a security interest may be perfected by the filing of a financing statement with the Delaware Secretary of State under the DUCC.

26. Upon the effective filing of the T-Holdings Financing Statement with the Delaware Secretary of State, the security interest created by the Guarantee and Security Agreement in T-Holdings rights in the Collateral (as defined therein) will be perfected under the DUCC in such of the Collateral described in the T-Holdings Financing Statement in which a security interest may be perfected by the filing of a financing statement with the Delaware Secretary of State under the DUCC.

27. Upon the effective filing of the T-Finance Financing Statement with the Delaware Secretary of State, the security interest created by the Guarantee and Security Agreement in T-Finance's rights in the Collateral (as defined therein) will be perfected under the DUCC in such of the Collateral described in the T-Finance Financing Statement in which a security interest may



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be perfected by the filing of a financing statement with the Delaware Secretary of State under the DUCC.

28. Upon the effective filing of the T895 Financing Statement with the Delaware Secretary of State, the security interest created by the Guarantee and Security Agreement in the T895's rights in the Collateral (as defined therein) will be perfected under the DUCC in such of the Collateral described in the T895 Financing Statement in which a security interest may be perfected by the filing of a financing statement with the Delaware Secretary of State under the DUCC.

29. The security interest created by the Security Agreement and the Guarantee and Security Agreement in the rights of the respective Borrower Parties in the Project Accounts (other than the Operating Account and the Collection Account) will be perfected by the execution and delivery of the Collateral Agency Agreement.

30. The security interest created by (a) the Security Agreement in the Borrower's rights in such of the Pledged Interests (as defined therein), (b) the Member Pledge Agreement in the Pledged Membership Interests (as defined therein) and (c) the Guarantee and Security Agreement in the Pledged Interests (as defined therein), in each case, as consists of a certificated security in registered form will be perfected upon the Collateral Agent acquiring possession in the State of New York of the related security certificate, indorsed to the Collateral Agent or in blank by an effective endorsement, or registered in the name of the Collateral Agent, upon original issue or registration of transfer by the issuer. Assuming that the Collateral Agent gives value for such certificated security and acquires it without notice of any adverse claims to such certificated security, the Collateral Agent will acquire its security interest in such certificated security free of adverse claims.

31. The making of the Loans by the Lenders and the use of the proceeds thereof by the Borrower will not violate Regulation T, U or X of the Board of Governors of the Federal Reserve System.

32. The Borrower is not an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

33. To our knowledge, none of the Borrower Parties is party to any pending action or proceeding in which any party challenges or seeks to invalidate the transactions contemplated by the Transaction Documents.

Our opinion that any agreement is valid, binding or enforceable in accordance with its terms is qualified as to:



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(a) limitations imposed by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, or other laws relating to or affecting the rights of creditors generally;

(b) rights to indemnification and contribution which may be limited by applicable law and equitable principles;

(c) the unenforceability under certain circumstances of provisions imposing penalties, forfeiture, late payment charges, or an increase in interest rate upon delinquency in payment or the occurrence of any event of default; and

(d) general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing, and the possible unavailability of specific performance or injunctive relief, regardless of whether such enforceability is considered in a proceeding in equity or at law.

Insofar as our opinion that any agreement is legal, valid, binding and enforceable pertains to the parties' agreement that the law of the State of New York shall be the governing law of such agreement, our opinion is based solely of Section 5-1401 of the New York General Obligations Law. We express no opinion as to the validity of such statute under the Constitution of the United States of America, particularly in circumstances where an agreement bears no reasonable relation to the State of New York.

Whenever a statement herein is qualified by the phrase "to our knowledge" or "known to us") it is intended to indicate that, during the course of our representation of the Borrower Parties in the transaction described in the first paragraph of this opinion letter, no information that would give us current actual knowledge of the inaccuracy of such statement has come to the attention of those attorneys presently in this firm who have rendered legal services in connection with our representation of the Borrower Parties in the transaction described in the first paragraph of this opinion letter. However, we have not undertaken any independent investigation or review (including without limitation docket searches) to determine the accuracy of any such statement, and any limited inquiry undertaken by us during the preparation of this opinion letter should not be regarded as such an investigation or review, and no inference as to our knowledge of any matters bearing on the accuracy of any such statement should be drawn from the fact of our representation of the Borrower Parties.

Our opinions in paragraphs 16-20 above are given based upon laws and regulations that in our experience may customarily be applicable to transactions of the type contemplated under the Transaction Documents. We express no opinion as to (i) (x) any federal or state securities laws (other than with respect to the Company Act of 1940 as to which paragraph 32 shall apply)



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or (y) any law, rule or regulation relating to the environment, environmental conservation, public utilities, health and safety, sanitation, land use, zoning, construction or transportation, or (ii) the necessity of obtaining any approval of, or making any filing with, any governmental authority relating to the environment, environmental conservation, public utilities, health and safety, sanitation, land use, zoning, construction or transportation.

We express no opinion in paragraphs 21 – 30 above as to: (a) any collateral in which the Borrower Parties do not have rights or the power to transfer rights, (b) any security interest for which value has not been given to the debtor, (c) any collateral that is of a type described in Section 9-501(a)(1) of the NYUCC or Section 9-501(a)(1) of the DUCC, or that constitutes consumer goods or a commercial tort claim, (d) any consumer transaction, (e) the perfection of any security interest in (i) any uncertificated security for which the issuer's jurisdiction as specified in Section 8-110(d) of the NYUCC is not the State of New York, (ii) any security entitlement or securities account for which the securities intermediary's jurisdiction of the Securities Intermediary as specified in Section 8-110(e) of the NYUCC is not the State of New York, or (iii) any deposit account for which the bank's jurisdiction of the Bank as specified in Section 9-304(b) of the NYUCC is not the State of New York, (f) the perfection of any security interest if the applicable financing statement does not sufficiently set forth the name and address of each of the secured party, the debtor, and any assignee, and the type and jurisdiction of organization of the debtor or if the debtor is not located in the State of Delaware, or (g) the priority of any security interest (other than as set forth in paragraph 30). Any opinion expressed herein as to any security interest in proceeds is subject to the provisions of Section 9-315 of the NYUCC and Section 9-315 of the DUCC.

We express no opinion herein as to laws other than the law of the State of New York, the federal law of the United States, the General Corporation Law, Limited Liability Company Act and Revised Uniform Partnership Act of the State of Delaware, and, solely with respect to our opinions in paragraphs 24 - 28 above, the DUCC. As you know we are not licensed to practice law in the State of Delaware, and our opinions herein as to such law are based solely on our review of standard compilations of the General Corporation Law, Limited Liability Company Act and Revised Uniform Partnership Act of the State of Delaware, and on our review of the text of Article 9 of the DUCC as set forth in the Delaware Uniform Commercial Code Annotated, 2005-2006 Edition, published by LexisNexis, in each case without regard to judicial or administrative interpretations of any Delaware law. We express no opinion to the extent that the law of any jurisdiction other than those identified above are applicable to the Transaction Documents or the transactions contemplated thereby.

We express no opinion regarding the enforceability of Section 7 of any ISDA Master Agreement (the "ISDA Master Agreement") purporting to prohibit, restrict, or condition the



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transfer or assignment of rights under the ISDA Master Agreement to the extent such restriction on transfer or assignment is governed by Section 9-401, 9-406 or 9-408 of the NYUCC. Further, we express no opinion regarding Sections 8 or 13(b)(ii) of the ISDA Master Agreement.

The opinions set forth in paragraphs 21 – 23, 29 and 30 are limited to Article 9 of the NYUCC, and thus such opinions cover only security interests, collateral, transactions, and perfection methods to the extent governed by Article 9 of the NYUCC. We express no opinion herein as to which jurisdiction's law governs perfection, the effect of perfection or nonperfection, or the priority of any security interest.

The opinion set forth in paragraphs 24 - 28 is limited to Article 9 of the DUCC, and thus such opinions cover only security interests, collateral, transactions, and perfection methods to the extent governed by Article 9 of the DUCC. We express no opinion herein as to which jurisdiction's law governs perfection, the effect of perfection or nonperfection, or the priority of any security interest.

We note that certain actions, including the timely filing of continuation statements, may be required after the date hereof in order to maintain the perfection of the security interests described in this opinion letter. We express no opinion herein as to any actions that may be required after the date hereof in order to maintain the perfection of the security interests described herein, and we do not undertake or assume any duty, obligation, or responsibility to take, or to advise anyone as to the necessity for taking, any such actions necessary or desirable to maintain the perfection of the security interests described herein.

This opinion letter is solely for your benefit and the benefit of any other Lenders in connection with the transaction described in the first paragraph of this opinion letter and may not be relied upon, used, quoted, or referred to by, nor may copies hereof be delivered to, any other person without our prior written approval. We disclaim any obligation to update this opinion letter for events occurring or coming to our attention after the date hereof.

Very truly yours,

Orrick, Herrington & Sutcliffe LLP
Orrick, Herrington & Sutcliffe LLP



Schedule I

Bayerische Hypo- und Vereinsbank AG, New York Branch
as a Lender and a Mandated Lead Arranger
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New York, NY 10017

Banco Espirito Santo, S.A.
as a Lender
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Banco Espirito Santo de Investimento, S.A.
as a Mandated Lead Arranger
Project Finance Division
33 Queen Street, London, EC4R 1ES
United Kingdom

DEPFA Bank plc,
as the Administrative Agent, a Lender and a Mandated Lead Arranger
1 Commons Street
Dublin 1
Ireland

Wells Fargo Bank, N.A.
as the Collateral Agent
9062 Old Annapolis Road
Columbia, MD 21045

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attn: Commissioner

— TROUTMAN SANDERS LLP —

A T T O R N E Y S A T L A W
A LIMITED LIABILITY PARTNERSHIP

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June 29, 2006

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York Branch,
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Transurban (895) US Holdings LLC

Ladies and Gentlemen:

We have acted as special counsel in the Commonwealth of Virginia for Transurban (895) US Holdings, LLC, a Delaware limited liability company (the "Borrower"), Transurban (895) LLC, a Delaware limited liability company ("T895"), Transurban (895) Holdings Ltd., a company limited by shares organized under the laws of Bermuda ("T-Holdings"), Transurban (895) Finance, Inc., a Delaware corporation ("T-Finance"), and Transurban (895), a Delaware general partnership ("T-GP"), in connection with the transactions contemplated by a Loan Agreement made as of June 22, 2006 (the "Loan Agreement"), among the Borrower, the several banks and other financial institutions from time to time parties thereto (the "Lenders"), the Mandated Lead Arrangers (as defined in the Loan Agreement) and DEPFA Bank PLC, as Administrative Agent for the Lenders (the "Administrative Agent"). All capitalized terms used

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and not otherwise defined herein shall have the meanings assigned thereto in the Loan Agreement.

In rendering the opinions set forth herein, we have examined executed originals, or photocopies or facsimiles of executed originals, of the following documents:

1. the Loan Agreement;
2. the Security Agreement by and between the Borrower and Wells Fargo Bank, N.A., as collateral agent (the "Collateral Agent");
3. the Guarantee and Security Agreement by and between T895, T-Holdings, T-Finance and the Collateral Agent;
4. the Membership Interest Pledge Agreement between T-GP and the Collateral Agent;
5. the Collateral Agency and Account Agreement by and among the Borrower, T-Finance, T-Holdings, T895, the Administrative Agent and the Collateral Agent;
6. the Affiliate Subordinated Note from the Borrower and payable to the order of T-GP;
7. the Arrangement Fee Letter dated as of June 22, 2006, among the Borrower, DEPFA Bank PLC, Bayerische Hypo-Und Vereinsbank AG, New York Branch and Banco Espirito Santo, S.A.;
8. the Underwriting Fee Letter dated as of June 22, 2006, among the Borrower, DEPFA Bank PLC and Bayerische Hypo-Und Vereinsbank AG, New York Branch;
9. the Fee Side Letter dated as of June 22, 2006, among the Borrower, DEPFA Bank PLC, Bayerische Hypo-Und Vereinsbank AG, New York Branch, and Banco Espirito Santo, S.A.;
10. the Administrative Agent's Fee Letter dated as of June 22, 2006, between the Borrower and the Administrative Agent;

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11. the Asset Purchase Agreement dated as of June 29, 2006 (the "Asset Purchase Agreement"), by and between Pocahontas Parkway Association, a Virginia not-for-profit, non-stock corporation, as the seller (the "Seller"), and T895, as the buyer; and

12. the Amended and Restated Comprehensive Agreement (Relating to the Grant of a Permit) to Operate the Route 895 Connector dated as of June 29, 2006 (the "ARCA"), by and between the Virginia Department of Transportation (the "Department") and T895, as the Operator.

The documents described in paragraphs 1 through 12 above are hereinafter referred to as the "Transaction Documents." The documents described in paragraphs 1 through 10 above are hereinafter referred to as the "Financing Documents." The documents described in paragraphs 11 and 12 above are hereinafter referred to as the "Acquisition Documents." Unless otherwise noted above, each of the Transaction Documents is dated as of the date hereof. The Borrower, T895, T-Holdings, T-Finance and T-GP are each referred to herein individually as an "Opinion Party" and collectively as the "Opinion Parties."

We have also examined and relied upon such other records, documents, certificates and instruments as we have deemed necessary to enable us to render the opinions set forth herein.

We express no opinion herein concerning any laws other than the internal laws of the Commonwealth of Virginia. In that regard, we note that the Financing Documents are governed by the laws of the State of New York. Our opinions contained in paragraph 2 below as to applicable laws and regulations, and as to the necessity of any action by or in respect of, or filing with, any governmental body, agency or official of the Commonwealth of Virginia, are based upon our review of those laws, regulations and requirements of the Commonwealth of Virginia which in our experience are normally applicable to transactions of the type described in the Transaction Documents (such applicable laws, regulations and requirements of the Commonwealth of Virginia being sometimes referred to herein as the "Applicable Laws and Regulations"), and, in particular, do not address (i) securities laws or regulations, (ii) pension or employee benefit laws or regulations, (iii) anti-trust or unfair competition laws or regulations, (iv) except as expressly set forth in paragraph 7 below, tax laws or regulations, (v) environmental, land use or subdivision laws or regulations, (vi) health or safety laws or regulations, or (vii) any action, consent, approval, filing, recording or registration by or with any governmental body, agency or official that may be required under any of the foregoing items (i) through (vi).

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The Code of Virginia of 1950, as amended, is hereinafter referred to as the "Virginia Code." The Uniform Commercial Code as adopted and currently in effect in the Commonwealth of Virginia is referred to herein as the "Virginia UCC."

In expressing the opinions set forth below, we have assumed (i) the due authorization, execution and delivery of the Transaction Documents by all parties (including all of the Opinion Parties) and the validity and binding effect thereof on all parties (other than the validity and binding effect of the Acquisition Documents on T895), (ii) the power and authority of each party to the Transaction Documents (including each of the Opinion Parties) to execute, deliver and perform the Transaction Documents and that such execution, delivery and performance do not (1) require any action by or in respect of, or filing with, any governmental body, agency or official (other than any governmental body, agency or official of the Commonwealth of Virginia under any Applicable Laws and Regulations), or (2) violate such party's organizational documents, any material agreement binding on such party or any law or governmental rule or regulation applicable to such party, (iii) the due organization and valid existence in the jurisdiction of its organization of each party to the Transaction Documents (including each of the Opinion Parties) and the qualification to transact business and good standing status in all necessary jurisdictions of each party to the Transaction Documents (other than as specifically set forth in paragraph 1 below), (iv) the genuineness of all signatures (including those of individuals executing the Transaction Documents on behalf of each of the Opinion Parties) and the legal capacity of all individuals, (v) the authenticity of all documents submitted to us as originals, (vi) the conformity to the originals of all documents submitted to us as certified copies, photocopies or facsimiles and the authenticity of the originals of such copies, (vii) the existence and adequacy of consideration supporting each Opinion Party's respective obligations under the Transaction Documents to which it is a party, and (viii) the validity and binding effect on all parties thereto (including all of the Opinion Parties) of all agreements, documents and certificates, other than the Transaction Documents, referenced by or incorporated in the Transaction Documents.

We have further assumed that (a) there has not been any mutual mistake of fact, misunderstanding, fraud, duress, undue influence or criminal activity, and any requirement of good faith, fair dealing and conscionability has been met, (b) each of the Transaction Documents contains all of the terms and provisions intended by the parties and the entire agreement of the parties thereto with respect to the subject matter thereof, and there are no written or oral agreements or understandings among the parties, no usage of trade or course of dealing among the parties, and no other extrinsic evidence, that in any case could define, conflict with,

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supplement or qualify any term or provision of any of the Transaction Documents, and (c) to the extent that applicable law would require any rights or remedies set forth in any of the Transaction Documents to be exercised in good faith or in a reasonable or commercially reasonable manner as a condition to the enforceability thereof, such legal requirements will be observed and satisfied.

Based upon and subject to the foregoing and the other assumptions, understandings and limitations contained herein, we are of the opinion that:

1. (Based solely on a certificate of fact relating to T895 issued by the Clerk of the Virginia State Corporation Commission and dated June 29, 2006, T895 holds a certificate of registration to transact business in the Commonwealth of Virginia.

2. The execution, delivery and performance by each Opinion Party of the Financing Documents to which it is a party (i) require no action by or in respect of, or filing with, any governmental body, agency or official of the Commonwealth of Virginia, and (ii) do not violate any Applicable Laws and Regulations.

3. Subject to the limitations set forth in this opinion, the Acquisition Documents constitute the valid and binding obligations of T895, enforceable against T895 in accordance with their respective terms.

4. The ARCA and the rights granted or to be granted thereunder are the types of agreements and rights contemplated by the Public-Private Transportation Act, amended and re-enacted by Chapters 504 and 562 of the 2005 Acts of Assembly of the Commonwealth of Virginia and effective July 1, 2005 (the "PPTA"), and comply with the requirements of the PPTA.

5. The conduct of T895's business as presently conducted or as proposed to be conducted in accordance with the ARCA requires no further action by or in respect of, or filing with, any governmental body, agency or official of the Commonwealth of Virginia.

6. Pursuant to Section 13.1-757.A. of the Virginia Code, a foreign corporation may not transact business in the Commonwealth of Virginia until it obtains a certificate of authority from the Virginia State Corporation Commission. Section 13.1-757.B. of the Virginia Code, however, provides that the following activities, among others, do not constitute transacting business within the meaning of Section 13.1-757.A.: (a) creating or

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acquiring indebtedness, deeds of trust and security interests in real or personal property, (b) securing or collecting debts or enforcing deeds of trust and security interests in property securing the debts, or (c) owning, without more, real or personal property.

7. No Lender will be subject to income, franchise or other similar taxation by the Commonwealth of Virginia or any political subdivision thereof solely by reason of entering into the Financing Documents or taking a lien pursuant to the Financing Documents. For purposes of the opinion expressed in this paragraph 7, we have assumed that (i) the contacts of each Lender within the Commonwealth of Virginia are solely in connection with the indebtedness described in the Financing Documents and are limited to the fact that the security for such indebtedness consists of liens and security interests in property located in the Commonwealth of Virginia and (ii) no Lender has engaged, or will in the future engage, in any activity constituting a presence in the Commonwealth of Virginia related to the indebtedness described in the Financing Documents or to obtaining title to or any benefit of ownership of any property located in the Commonwealth of Virginia by foreclosure or otherwise. For purposes of the preceding sentence, an activity by a Lender includes any activity taken on behalf of such Lender by its agent or other representative. If the above assumptions in this paragraph 7 are inaccurate, a Lender may, depending on the specific circumstances that may occur, be subject to taxation in the Commonwealth of Virginia and certain political subdivisions thereof.

8. Section 1A-301(b) of the Virginia UCC provides that, except as otherwise provided in Section 1A-301 of the Virginia UCC, when a transaction bears a "reasonable relation" to Virginia and to another state or nation, the parties may agree that the law either of Virginia or of such other state or nation shall govern their rights and duties. The approach of Section 1A-301 of the Virginia UCC is consistent with the traditional approach of Virginia courts in this area which has been to give effect to the intention of the parties. Accordingly, in our opinion, if a court sitting in Virginia found that the transaction contemplated by the Financing Documents bears a reasonable relation to the State of New York, such court should give effect to the express provisions of the Financing Documents that such agreements be governed by the laws of the State of New York, except to the extent that (i) procedural (as opposed to substantive) laws are involved, (ii) federal law preempts applicable state law, or (iii) the applicable laws of the State of New York violate a public policy of the Commonwealth of Virginia.

9. Pursuant to Section 6.1-330.75 of the Virginia Code, and other provisions of Virginia law, the Borrower may not, by way of defense or otherwise, avail itself of the

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provisions of Virginia law relating to usury or compounding of interest to avoid or defeat the payment of interest, or any other sum, in connection with the transactions contemplated by the Financing Documents.

The opinion expressed in paragraph 3 above is qualified to the extent that the enforceability of the Acquisition Documents may be limited by (a) bankruptcy, reorganization, insolvency, liquidation, fraudulent conveyance, moratorium and other laws of general application relating to or affecting the enforcement of creditors' rights and remedies generally, (b) general principles of equity (regardless of whether such enforceability is adjudicated in a proceeding in equity or at law), and (c) statutory and equitable limitations on the ability of the Seller or the Department, as applicable, to exercise its rights and remedies under the Acquisition Documents, such as commercial reasonableness and good faith.

Further, we express no opinion as to any provision of the Acquisition Documents relating to (1) waiver of jury trial, (2) waiver of objection to venue, (3) submission to jurisdiction, (4) severability of any provision, (5) any consent or agreement by a party to a document being enforceable against another party that has not executed and delivered that document, (6) waiver or modification of terms except in writing, (7) indemnification of any party for, or the exculpation of any party from, its own negligence, (8) waiver of any statute of limitations or repose, or (9) service of process.

In addition, with respect to the Acquisition Documents we express no opinion on the enforceability of (A) any provision related to self-help; (B) any provision which purports to establish evidentiary standards; (C) any provision related to exclusivity of remedies, election of remedies, waiver of remedies (or the delay or omission of enforcement thereof), disclaimers, liability limitations, releases of legal or equitable rights, discharges of defenses or liquidated damages; (D) any provision relating to the remedy of specific performance; (E) any provision purporting to appoint any party or any trustee as attorney-in-fact to take any action or otherwise act on behalf of other parties, or permitting any party or any trustee to appoint or designate an agent to take any action for either of them; or (F) any provision that conflicts or is inconsistent with any other provision of any other agreement, document or certificate referenced by or incorporated in the Acquisition Documents.

Our opinions are further subject to the exception that the enforceability of certain of the remedial, waiver, indemnity and other provisions contained in the Acquisition Documents may

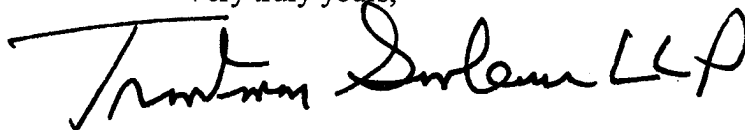
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not be enforceable under applicable law and may be subject to limitations based upon public policy considerations.

The opinions expressed herein are as of the date hereof. We assume no obligation to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in laws, rules or regulations which may hereafter occur.

The opinions expressed herein are provided solely for the information and benefit of the Administrative Agent and the Lenders in connection with the transactions contemplated by the Transaction Documents and may not be relied upon by the Administrative Agent or the Lenders for any other purposes or by any other person, entity or agency for any purpose. Without our prior written consent, this opinion may not be quoted or otherwise referred to in any financial statement or other document, in whole or in part, or furnished to any other person, entity or agency (except to regulatory agencies having jurisdiction over the Administrative Agent or any Lender).

Very truly yours,

A handwritten signature in black ink, appearing to read "Troutman Sanders LLP", is written over a horizontal line.

65. Opinion of Office of the Attorney General of the
Commonwealth of Virginia

See Tab 25

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Project Finance Division
33 Queen Street London
EC4R 1ES, as Mandated Lead Arranger

Dear Sirs

29 June 2006

Transurban (895) Holdings Ltd. (the "Company")

Bermuda
British Virgin Islands
Cayman Islands
Hong Kong
London

We have acted as legal counsel in Bermuda to the Company, which has requested that we provide this opinion in connection with the following agreements:

(ii) Collateral Agency and Account Agreement

(Items (i) and (ii) are defined in the Schedule hereto and collectively referred to as the "Subject Agreements")

For the purposes of this opinion we have examined and relied upon the documents listed, and in some cases defined, in the Schedule to this opinion (the "Documents") together with such other documentation as we have considered requisite to this opinion. Unless otherwise defined herein, capitalised terms have the meanings assigned to them in the Guarantee and Security Agreement.

Assumptions

In stating our opinion we have assumed:

- (a) the authenticity, accuracy and completeness of all Documents and other documentation examined by us submitted to us as originals and the conformity to authentic original documents of all Documents and other such documentation submitted to us as certified, conformed, notarised, faxed or photostatic copies;
- (b) that each of the Documents and other such documentation which was received by electronic means is complete, intact and in conformity with the transmission as sent;
- (c) the genuineness of all signatures on the Documents;
- (d) the authority, capacity and power of each of the persons signing the Documents (other than the Company in respect of the Subject Agreements);
- (e) that any representation, warranty or statement of fact or law, other than as to the laws of Bermuda, made in any of the Documents is true, accurate and complete;

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- (g) that the Subject Agreements have been validly authorised, executed and delivered by each of the parties thereto, other than the Company, and the performance thereof is within the capacity and powers of each such party thereto, and that each such party to which the Company purportedly delivered the Subject Agreements has actually received and accepted delivery of such Subject Agreements;
- (h) that the Subject Agreements will effect, and will constitute legal, valid and binding obligations of each of the parties thereto, enforceable in accordance with their terms, under the laws of New York by which they are expressed to be governed;
- (i) that the Subject Agreements except are in the proper legal form to be admissible in evidence and enforced in the courts of New York and in accordance with the laws of New York;
- (j) that there are no provisions of the laws or regulations of any jurisdiction other than Bermuda which would be contravened by the execution or delivery of the Subject Agreements or which would have any implication in relation to the opinion expressed herein and that, in so far as any obligation under, or action to be taken under, the Subject Agreements is required to be performed or taken in any jurisdiction outside Bermuda, the performance of such obligation or the taking of such action will constitute a valid and binding obligation of each of the parties thereto under the laws of that jurisdiction and will not be illegal by virtue of the laws of that jurisdiction;
- (k) that none of the parties to the Subject Agreements (other than the Company) maintains a place of business (as defined in section 4(6) of the Investment Business Act 2003), in Bermuda;

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- (l) that the Company is not carrying on deposit-taking business in or from within Bermuda under the provisions of the Banks and Deposit Companies Act 1999 as amended from time to time (the "Banks Act"), on the basis that no sum of money is paid to it as a deposit within the meaning of Section 3 of the Banks Act;
- (m) that the records which were the subject of the Company Search were complete and accurate at the time of such search and disclosed all information which is material for the purposes of this opinion and such information has not since the date of the Company Search been materially altered;
- (n) that the records which were the subject of the Litigation Search were complete and accurate at the time of such search and disclosed all information which is material for the purposes of this opinion and such information has not since the date of the Litigation Search been materially altered;
- (o) that the Resolutions are in full force and effect, have not been rescinded, either in whole or in part, and accurately record the resolutions adopted by all the Directors of the Company as unanimous written resolutions of the Board and that there is no matter affecting the authority of the Directors to effect entry by the Company into the Subject Agreements, not disclosed by the Constitutional Documents or the Resolutions, which would have any adverse implication in relation to the opinions expressed herein;
- (p) that the Administrative Agent, Collateral Agent and the Financing Parties have no express or constructive knowledge of any circumstance whereby any Director of the Company, when the Board of Directors of the Company adopted the Resolutions, failed to discharge his fiduciary duty owed to the Company and to act honestly and in good faith with a view to the best interests of the Company;
- (q) that the Company has entered into its obligations under the Subject Agreements in good faith for the purpose of carrying on its business and that, at the time it did so, there were reasonable grounds for believing that the

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transactions contemplated by the Subject Agreements would benefit the Company;

- (r) that each transaction to be entered into pursuant to the Subject Agreements is entered into in good faith and for full value and will not have the effect of preferring one creditor over another;
- (s) that any action taken or performed or the execution of any instrument by the Collateral Agent as attorney-in-fact of the Company pursuant to the powers of attorney granted under the Subject Agreements will be valid and binding and will achieve the purposes of the relevant Subject Agreement under the laws of the place of performance or the laws of the jurisdiction governing the said instrument; and
- (t) that the Guarantee and Security Agreement creates a charge, as that term is understood under the laws of Bermuda, over the assets of the Company referred to therein under the laws of New York by which it is expressed to be governed.

Opinion

Based upon and subject to the foregoing and subject to the reservations set out below and to any matters not disclosed to us, we are of the opinion that:

- (1) The Company is an exempted company incorporated with limited liability and existing under the laws of Bermuda. The Company possesses the capacity to sue and be sued in its own name and is in good standing under the laws of Bermuda.
- (2) The Company has all requisite corporate power and authority to enter into, execute, deliver, and perform its obligations under the Subject Agreements to which it is a party and to take all action as may be necessary to complete the transactions contemplated thereby.

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The execution, delivery and performance by the Company of the Subject Agreements to which it is a party and the transactions contemplated thereby have been duly authorised by all necessary corporate action on the part of the Company.

- (4) The Subject Agreements have been duly executed by the Company and each constitutes legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its terms
- (5) Except as otherwise provided in this opinion, no consent, licence or authorisation of, filing with, or other act by or in respect of, any governmental authority or court of Bermuda is required to be obtained by the Company in connection with the execution, delivery or performance by the Company of the Subject Agreements or to ensure the legality, validity, admissibility into evidence or enforceability as to the Company, of the Subject Agreements.
- (6) The execution, delivery and performance by the Company of the Subject Agreements and the transactions contemplated thereby do not and will not violate, conflict with or constitute a default under (i) any requirement of any law or any regulation of Bermuda or (ii) the Constitutional Documents.
- (7) The transactions contemplated by the Subject Agreements are not subject to any currency deposit or reserve requirements in Bermuda. The Company has been designated as "non-resident" for the purposes of the Exchange Control Act 1972 and regulations made thereunder and there is no restriction or requirement of Bermuda binding on the Company which limits the availability or transfer of foreign exchange (i.e. monies denominated in currencies other than Bermuda dollars) for the purposes of the performance by the Company of its obligations under the Subject Agreements.
- (8) The choice of the laws of New York as the proper law to govern the Subject Agreements is a valid choice of law under Bermuda law and such choice of law would be recognised, upheld and applied by the courts of Bermuda as the proper law of the Subject Agreements in proceedings brought before them in relation to the Subject Agreements, provided that (i) the point is specifically

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pleaded; (ii) such choice of law is valid and binding under the laws of New York; and (iii) recognition would not be contrary to public policy as that term is understood under Bermuda law.

- (9) The submission by the Company to the jurisdiction of the courts of New York pursuant to the Subject Agreements is not contrary to Bermuda law and would be recognised by the courts of Bermuda as a legal, valid and binding submission to the jurisdiction of the courts of New York if such submission is accepted by such courts and is legal, valid and binding under the laws of New York.
- (10) A final and conclusive judgment of a competent foreign court against the Company based upon the Subject Agreements (other than a court of jurisdiction to which The Judgments (Reciprocal Enforcement) Act 1958 applies, and it does not apply to the courts of New York) under which a sum of money is payable (not being a sum payable in respect of taxes or other charges of a like nature, in respect of a fine or other penalty, or in respect of multiple damages as defined in The Protection of Trading Interests Act 1981) may be the subject of enforcement proceedings in the Supreme Court of Bermuda under the common law doctrine of obligation by action on the debt evidenced by the judgment of such competent foreign court. A final opinion as to the availability of this remedy should be sought when the facts surrounding the foreign court's judgment are known, but, on general principles, we would expect such proceedings to be successful provided that:
- (i) the court which gave the judgment was competent to hear the action in accordance with private international law principles as applied in Bermuda; and
 - (ii) the judgment is not contrary to public policy in Bermuda, has not been obtained by fraud or in proceedings contrary to natural justice and is not based on an error in Bermuda law.

Enforcement of such a judgment against assets in Bermuda may involve the conversion of the judgment debt into Bermuda dollars, but the Bermuda

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Monetary Authority has indicated that its present policy is to give the consents necessary to enable recovery in the currency of the obligation.

No stamp duty or similar or other tax or duty is payable in Bermuda on the enforcement of a foreign judgment. Court fees will be payable in connection with proceedings for enforcement.

- (11) Based solely upon the Company Search and the Litigation Search:
- (i) no litigation, administrative or other proceeding of or before any governmental authority of Bermuda is pending against or affecting the Company; and
 - (ii) no notice to the Registrar of Companies of the passing of a resolution of members or creditors to wind up or the appointment of a liquidator or receiver has been given. No petition to wind up the Company or application to reorganise its affairs pursuant to a scheme of arrangement or application for the appointment of a receiver has been filed with the Supreme Court.
- (12) The Company **has requested and will shortly receive** an assurance from the Ministry of Finance granting an exemption, until 28 March 2016, from the imposition of tax under any applicable Bermuda law computed on profits or income or computed on any capital asset, gain or appreciation, or any tax in the nature of estate duty or inheritance tax, provided that such exemption shall not prevent the application of any such tax or duty to such persons as are ordinarily resident in Bermuda and shall not prevent the application of any tax payable in accordance with the provisions of the Land Tax Act 1967 or otherwise payable in relation to land in Bermuda leased to the Company. There are, subject as otherwise provided in this opinion, no Bermuda taxes, stamp or documentary taxes, duties or similar charges now due, or which could in the future become due, in connection with the execution, delivery, performance or enforcement of the Subject Agreements or the transactions contemplated thereby, or in connection with the admissibility in evidence thereof and the Company is not

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required by any Bermuda law or regulation to make any deductions or withholdings in Bermuda from any payment it may make thereunder.

- (13) Charges over the assets of Bermuda companies (other than real property in Bermuda or a ship or aircraft registered in Bermuda) wherever situated, and charges on assets situated in Bermuda (other than real property in Bermuda or a ship or aircraft registered in Bermuda) which are granted by or to companies incorporated outside Bermuda, are capable of being registered in Bermuda in the office of the Registrar of Companies pursuant to the provisions of Part V of the Companies Act 1981 (the "Act"). Registration under the Act is the only method of registration of charges over the assets of Bermuda companies in Bermuda except charges over real property in Bermuda or ships or aircraft registered in Bermuda. Registration under the Act is not compulsory and does not affect the validity or enforceability of a charge and there is no time limit within which registration of a charge must be effected. However, in the event that questions of priority fall to be determined by reference to Bermuda law, any charge registered pursuant to the Act will take priority over any other charge which is registered subsequently in regard to the same assets, and over all other charges created over such assets after 1 July, 1983, which are not registered.

On the basis that it creates a charge, as that term is understood under the laws of Bermuda, under the laws of New York by which the Guarantee and Security Agreement is expressed to be governed, the Guarantee and Security Agreement creates a charge over the assets of the Company capable of registration in Bermuda, and should be filed with the Registrar of Companies in Bermuda in order to establish its priority.

Reservations

We have the following reservations:

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(a) The term "enforceable" as used in this opinion means that there is a way of ensuring that each party performs an agreement or that there are remedies available for breach.

(b) We express no opinion as to the availability of equitable remedies such as specific performance or injunctive relief, or as to any matters which are within the discretion of the courts of Bermuda in respect of any obligations of the Company as set out in the Subject Agreements. In particular, we express no opinion as to the enforceability of any present or future waiver of any provision of law (whether substantive or procedural) or of any right or remedy which might otherwise be available presently or in the future under the Subject Agreements.

(c) Enforcement of the obligations of the Company under the Subject Agreements may be limited or affected by applicable laws from time to time in effect relating to bankruptcy, insolvency or liquidation or any other laws or other legal procedures affecting generally the enforcement of creditors' rights.

(d) Enforcement of the obligations of the Company may be the subject of a statutory limitation of the time within which such proceedings may be brought.

(e) We express no opinion as to any law other than Bermuda law and none of the opinions expressed herein relates to compliance with or matters governed by the laws of any jurisdiction except Bermuda. This opinion is limited to Bermuda law as applied by the Courts of Bermuda at the date hereof.

(f) Where an obligation is to be performed in a jurisdiction other than Bermuda, the courts of Bermuda may refuse to enforce it to the extent that such performance would be illegal under the laws of, or contrary to public policy of, such other jurisdiction.

(g) We express no opinion as to the validity, binding effect or enforceability of any provision incorporated into any of the Subject Agreements by reference to a law other than that of Bermuda, or as to the availability in Bermuda of remedies which are available in other jurisdictions.

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(h) A receiver or manager of the Company appointed pursuant to the Subject Agreements is required to give notice to the Registrar of Companies in Bermuda within seven days of the date of the order or appointment in accordance with Section 60 of the Act and in the form provided for by the Companies Forms Rules 1982. On payment of the appropriate fee, the Registrar of Companies shall enter the fact of this appointment in the Register of Charges maintained pursuant to Part V of the Act. Such a receiver or manager must be duly qualified pursuant to and comply with the provisions of Part XIV of the Act.

(i) Where a person is vested with a discretion or may determine a matter in his or its opinion, such discretion may have to be exercised reasonably or such an opinion may have to be based on reasonable grounds.

(j) Any provision in the Subject Agreements that certain calculations or certificates will be conclusive and binding will not be effective if such calculations or certificates are fraudulent or erroneous on their face and will not necessarily prevent juridical enquiries into the merits of any claim by an aggrieved party.

(k) We express no opinion as to the validity or binding effect of any provision in the Subject Agreements for the payment of interest at a higher rate on overdue amounts than on amounts which are current, or that liquidated damages are or may be payable. Such a provision may not be enforceable if it could be established that the amount expressed as being payable was in the nature of a penalty; that is to say a requirement for a stipulated sum to be paid irrespective of, or necessarily greater than, the loss likely to be sustained. If it cannot be demonstrated to the Bermuda court that the higher payment was a reasonable pre-estimate of the loss suffered, the court will determine and award what it considers to be reasonable damages. Section 9 of The Interest and Credit Charges (Regulations) Act 1975 provides that the Bermuda courts have discretion as to the amount of interest, if any, payable on the amount of a judgment after date of judgment. If the Court does not exercise that discretion, then interest will accrue at the statutory rate which is currently 7% per annum.

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(1) We express no opinion as to the validity or binding effect of any provision of the Subject Agreements which provides for the severance of illegal, invalid or unenforceable provisions.

- (m) A Bermuda court may refuse to give effect to any provisions of the Subject Agreements in respect of costs of unsuccessful litigation brought before the Bermuda court or where that court has itself made an order for costs.
- (n) Searches of the Register of Companies at the office of the Registrar of Companies and of the Supreme Court Causes Book at the Registry of the Supreme Court are not conclusive and it should be noted that the Register of Companies and the Supreme Court Causes Book do not reveal:
 - (i) details of matters which have been lodged for filing or registration which as a matter of best practice of the Registrar of Companies or the Registry of the Supreme Court would have or should have been disclosed on the public file, the Causes Book or the Judgment Book, as the case may be, but for whatever reason have not actually been filed or registered or are not disclosed or which, notwithstanding filing or registration, at the date and time the search is concluded are for whatever reason not disclosed or do not appear on the public file, the Causes Book or Judgment Book;
 - (ii) details of matters which should have been lodged for filing or registration at the Registrar of Companies or the Registry of the Supreme Court but have not been lodged for filing or registration at the date the search is concluded;
 - (iii) whether an application to the Supreme Court for a winding-up petition or for the appointment of a receiver or manager has been prepared but not yet been presented or has been presented but does not appear in the Causes Book at the date and time the search is concluded;

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(iv) whether any arbitration or administrative proceedings are pending or whether any proceedings are threatened, or whether any arbitrator has been appointed; or

(v) whether a receiver or manager has been appointed privately pursuant to the provisions of a debenture or other security, unless notice of the fact has been entered in the Register of Charges in accordance with the provisions of the Act.

Furthermore, in the absence of a statutorily defined system for the registration of charges created by companies incorporated outside Bermuda ("overseas companies") over their assets located in Bermuda, it is not possible to determine definitively from searches of the Register of Charges maintained by the Registrar of Companies in respect of such overseas companies what charges have been registered over any of their assets located in Bermuda or whether any one charge has priority over any other charge over such assets.

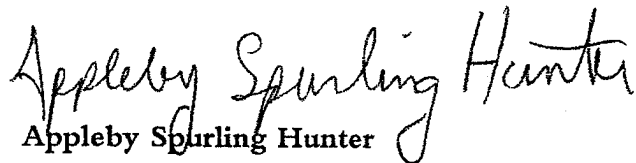
- (o) In order to issue this opinion we have carried out the Company Search as referred to in the Schedule to this opinion and have not enquired as to whether there has been any change since the date of such search.
- (p) In order to issue this opinion we have carried out the Litigation Search as referred to in the Schedule to this opinion and have not enquired as to whether there has been any change since the date of such search.
- (q) In paragraph (1) above, the term "good standing" means that the Company has received a Certificate of Compliance from the Registrar of Companies indicating that it has neither failed to make any filing with any Bermuda governmental authority nor to pay any Bermuda government fee or tax, which might make it liable to be struck off the Register of Companies and thereby cease to exist under the laws of Bermuda.

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This opinion is addressed to you solely for your benefit and is neither to be transmitted to any other person, nor relied upon by any other person or for any other purpose nor quoted or referred to in any public document nor filed with any governmental agency or person, without our prior written consent, except as may be required by law or regulatory authority. Further, this opinion speaks as of its date and is strictly limited to the matters stated herein and we assume no obligation to review or update this opinion if applicable law or the existing facts or circumstances should change.

This opinion is governed by and is to be construed in accordance with Bermuda law. It is given on the basis that it will not give rise to any legal proceedings with respect thereto in any jurisdiction other than Bermuda.

Yours faithfully


Appleby Spurling Hunter

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SCHEDULE

1. The entries and filings shown in respect of the Company on the file of the Company maintained in the Register of Companies at the office of the Registrar of Companies in Hamilton, Bermuda, as revealed by a search conducted on 29 June 2006 (the "Company Search").
2. The entries and filings shown in respect of the Company in the Supreme Court Causes Book maintained at the Registry of the Supreme Court in Hamilton, Bermuda, as revealed by a search conducted on 29 June 2006 (the "Litigation Search").
3. Certified copies of the Certificate of Incorporation, Memorandum of Association and Bye-Laws for the Company (collectively referred to as the "Constitutional Documents").
4. Certified copy of the unanimous written resolutions of the Directors effective 21 June 2006 (the "Resolutions").
5. A certified copy of the "Foreign Exchange Letter", dated 13 June 2006, issued by the Bermuda Monetary Authority, Hamilton Bermuda in relation to the Company.
6. A Certificate of Compliance, dated 21 June 2006 issued by the Registrar of Companies in respect of the Company.
7. Scanned copy of an executed guarantee and security agreement dated 29 June 2006, among the Company, Transurban (895) Finance, Inc., Transurban 895 LLC and the Collateral Agent (the "Guarantee and Security Agreement").
8. Scanned copy of an executed collateral agency and account agreement, dated 29 June 2006, among the Company, Transurban (895) Finance, Inc., Transurban 895 LLC Transurban (895) US Holdings LLC, the Administrative Agent and the Collateral Agent (the "Collateral Agency and Account Agreement").

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Freehills

29 June 2006

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Matter no 81042601
Doc no Melbourne\004830607

DEPFA Bank plc
1 Commons Street
Dublin 1, Ireland
(in its capacity as Administrative Agent, Lender and Mandated Lead Arranger
under the Loan Agreement)

Wells Fargo Bank, N.A.
(in its capacity as Collateral Agent)

Bayerische Hypo- und Vereinsbank AG, New York Branch
(in its capacity as Lender and Mandated Lead Arranger)

Banco Espirito Santo de Investimento, S.A.
(in its capacity as Mandated Lead Arranger)

Banco Espirito Santo, S.A.
(in its capacity as Lender)

Dear Sirs

**Opinion: Transurban Finance Company Pty Ltd and Transurban
Infrastructure Management Limited (in its capacity as trustee of
Transurban (895) Finance Trust)**

We have acted as solicitors to Transurban Finance Company Pty Ltd (**FinCo**) in connection with the Demand Note Guaranty and Transurban Infrastructure Management Limited (in its capacity as trustee of the Trust) (**TIML**) in connection with the Demand Note. We have only examined the Documents. Expressions defined in this Opinion have the meaning given in this Opinion.

1 Opinion

Based only upon the Documents and subject to the assumptions and qualifications set out in this Opinion, we are of the opinion that:

- 1.1 each Company is registered and validly existing under the Relevant Laws and is capable of suing and being sued in its corporate name;
- 1.2 each Company has the corporate power to enter into and perform its obligations under the Transaction Documents to which it is a party;

- 1.3 each Company has taken all necessary corporate action and, in the case of TIML, trust action, to authorise the execution, and delivery of and the performance of its obligations under, the Transaction Documents to which it is a party;
- 1.4 each Company has validly executed the Transaction Document to which it is a party;
- 1.5 no approval, authorisation, permission or consent of, or filing, recording or registration with, any public authority, public office or governmental agency of any Relevant Jurisdiction is necessary under the Relevant Laws:
- (a) in connection with the execution or delivery by the Company of the Transaction Document to which it is a party; or
 - (b) to ensure the legality or validity of, or the enforceability against the Company of, the Transaction Document to which it is a party,
- other than as may be required under or in connection with the Financial Transactions Reporting Act 1988 (FTR Act);
- 1.6 the execution and delivery by each relevant Company of, and the performance by that Company of its obligations under, the Transaction Documents do not and will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under:
- (a) the constitution of that Company;
 - (b) any Relevant Law applicable to companies generally; or
 - (c) in the case of TIML, the Trust Deed;
- 1.7 no Company enjoys immunity from suit in the courts of any Relevant Jurisdiction and its assets are not exempt from execution;
- 1.8 the appropriate Federal Courts of Australia or the Supreme Court of Victoria, in each case having or exercising jurisdiction, will give effect to:
- (a) the choice of laws specified in each Transaction Document to govern that Transaction Document;
 - (b) the submission by each relevant Company to the jurisdiction of the courts specified in each Transaction Document;
- 1.9 each party to a Transaction Document other than a Company will be entitled to bring action in the appropriate Federal Courts of Australia or in the Supreme Court of Victoria, in each case having or exercising jurisdiction, to enforce its rights against the relevant Company under the Transaction Documents except to the extent that such action is contrary to public policy and subject to any requirement to provide security for costs, security in respect of the usual undertakings and indemnities for malicious and wrongful actions; and
- 1.10 no ad valorem stamp duty or similar taxes or duties in the State of Victoria are payable in connection with the execution and delivery of the Transaction Documents to which each relevant Company are expressed to be a party or the payments made under the Transaction Documents.

2 Foreign judgment opinion

Based only upon the Transaction Documents, and subject to the assumptions and qualifications set out in this Opinion, we are of the opinion that:

- 2.1 a judgment in person obtained against a Company from the Federal Courts of the State of New York may, subject to compliance with the rules and procedures of the Supreme Court of Victoria, be the subject of an action for the purposes of enabling a corresponding judgment to be obtained and enforced in the Supreme Court of Victoria but any such foreign judgment may not be recognised if it is a judgment which is, amongst other things:
- (a) for an uncertain sum;
 - (b) in respect of taxes or any revenue law (including for any fiscal penalty) or a fine or other penalty;
 - (c) obtained:
 - (1) by fraud;
 - (2) contrary to notions of natural justice or public policy under the laws of a Relevant Jurisdiction;
 - (3) in circumstances where the judgment debtor did not receive notice of the proceedings in sufficient time to enable the judgment debtor to defend;
 - (4) from a court whose jurisdiction is not recognised under the rules of private international law;
 - (d) in favour of a person other than the applicant for enforcement or recognition;
 - (e) not final and conclusive or is otherwise subject to appeal, dismissal, reversal, setting aside or stay of execution;
 - (f) on a cause of action previously adjudicated; or
 - (g) of a nature or type which a court in its absolute discretion refuses to enforce;
- 2.2 on the hearing of an action to enforce the foreign judgment, the foreign judgment will not be re-examined on its merits, although the defendant may raise any counterclaim which it might have raised had the action originally been brought before the Supreme Court of Victoria unless the subject of the counterclaim was in issue and was decided by the foreign judgment of the New York Court;
- 2.3 a foreign judgment which is obtained in a currency other than Australian dollars may be converted into Australian dollars by the Supreme Court of Victoria when issuing the corresponding local judgment (however in the absence of an official or fixed exchange rate between Australian dollars and any other currency, we can express no opinion on how that rate of exchange is to be determined); and
- 2.4 on 27 June 1991 the Foreign Judgments Act 1991 (Cth) became effective. It provides for registration of foreign judgments of certain countries which are listed in the regulations. At the date of this opinion no such regulations have been promulgated with respect to the United States of America and

its courts. However, that Act does not state that it operates to the exclusion of the rules of common law or equity which have application in the case of New York Courts in the manner described above.

3 Assumptions

In this Opinion we have assumed the following matters, and we have not made, nor are we obliged to make, any independent investigation of, or enquiries in respect of, those matters but the Acting Person (who also has not made, nor is obliged to make, any independent investigation or enquiries of those matters) has no actual knowledge at the time of giving this Opinion of any fact which would render any of the assumptions incorrect:

- 3.1 in relation to the Documents examined by us:
 - (a) all signatories, seals, dates, duty stamps and markings are authentic;
 - (b) if a copy or a specimen, it conforms in all respects to the original;
 - (c) it is complete, has not been amended, rescinded, terminated or revoked, it is in full force and effect, it has been, or will be, duly delivered and it is not subject to escrow or conditions;
 - (d) it constitutes legal, valid, binding and enforceable obligations of all parties to it under all applicable laws;
 - (e) its execution, delivery and performance by all parties to it complies with all applicable laws (other than, in respect of the Documents and each Company, the Relevant Laws);
- 3.2 each party to the Documents (other than each relevant Company) is duly incorporated or organised and validly existing under all applicable laws;
- 3.3 each Resolution was duly and properly passed, has not been varied or revoked, is properly recorded in the extract examined by us and is not subject to any right to set it aside or question its validity (whether due to lack of quorum, improperly convened meeting, breach of directors duties, resolution of a general meeting of shareholders or otherwise);
- 3.4 execution, delivery or performance of the Documents in a jurisdiction other than a Relevant Jurisdiction is legal, valid, binding and enforceable under all laws of that jurisdiction;
- 3.5 we are entitled to make all of the assumptions specified in section 129 of the Corporations Act on the basis of the Company Extract and the fact that no partner or solicitor of this firm nor any other person is disqualified by section 128(4) of the Corporations Act from making those assumptions;
- 3.6 no liquidator, administrator, receiver, receiver and manager or like officer has been appointed to a Company or any of its assets and no Company has been wound up or obtained protection from its creditors under any applicable laws;
- 3.7 no transaction in connection with the Documents constitutes an "insolvent transaction" or an "unfair loan" within the meaning of sections 588FC or 588FD respectively of the Corporations Act;

- 3.8 each Company and each other party to the Documents is solvent at the time of, and after giving effect to, the entry into of the Documents to which it is a party;
- 3.9 no party has contravened or will contravene Chapter 2E of the Corporations Act by entering into the Documents or giving effect to a transaction in connection with the Documents;
- 3.10 no notice or direction under section 218 or section 255 of the Tax Act or section 260-5 of the Taxation Administration Act 1953 (Cth) or any similar provision of any other legislation of a Relevant Jurisdiction has been, or will be, given requiring either Company to deduct from any sums payable by it to a person under any Documents any amount of tax payable by the payee;
- 3.11 no laws other than the Relevant Laws affect this Opinion;
- 3.12 each Company enters into the Documents in good faith for the purpose of and in connection with the carrying on of its business and for its commercial benefit which is commensurate with the obligations to be undertaken by each Company under the Documents;
- 3.13 no party to the Documents is conducting, or will conduct, its business or any activity contemplated by, or performance of, the Documents in any way or for any purpose not evident from the face of the Documents which might result in a breach of any statute or other law or render the Documents illegal, void, voidable or otherwise unenforceable or might otherwise render any part of this Opinion incorrect;
- 3.14 no person entitled to rely on this Opinion is aware that any assumption made by us is incorrect (but this assumption is not to affect any other person who is entitled to rely on this Opinion who is not so aware);
- 3.15 the choice of law contained in the Documents is bona fide and is not unconnected with the commercial realities of the transactions contemplated by the Documents;
- 3.16 in relation to the opinion given in paragraph 1.5 only, that all payments and instructions for the transfer of funds made in respect of the Transaction Documents which require reporting under the FTR Act, will be duly reported in accordance with that Act; and
- 3.17 no party enters into a Document in the capacity of a trustee of any trust or settlement or as a partner of a partnership other than TIML, and in relation to TIML, the Trust and the Trust Deed:
- (1) TIML is, and will be, the sole trustee of the Trust;
 - (2) no action has been taken to terminate the Trust and the Trust has not vested nor has TIML exercised any power or indicated an intention to exercise any power to vest the Trust before the vesting day specified in the Trust Deed;
 - (3) TIML has not resigned, nor been removed, nor has action been taken to remove TIML, as trustee of the Trust nor has TIML ceased to be trustee of the Trust by operation of law;

- (4) TIML has not exercised any power to release, abandon or restrict any power conferred on it by the Trust Deed;
- (5) TIML is the legal owner of any property it has acquired, or will acquire, as trustee of the Trust;
- (6) the entry into, delivery of and performance of the Documents by TIML is part of the proper administration of the Trust by TIML, is a proper exercise of its fiduciary duties as trustee of the Trust and is for the benefit of the Trust and the beneficiaries of the Trust;
- (7) all directions, instructions or consents required to be given to TIML under the Trust or otherwise in respect of the trustee's execution, delivery and performance of the Documents have been given and none has been withdrawn or revoked;
- (8) the Trust was and continues to be, duly constituted by the Trust Deed;
- (9) the Trust Deed is valid, binding and enforceable in accordance with its terms; and
- (10) TIML is entitled to be fully indemnified from the assets of the Trust in respect of all liabilities incurred by it under or in respect of the Documents and that right of indemnity and any lien securing it are in full force and effect.

4 Qualifications

This Opinion is subject to the following qualifications:

- 4.1 this Opinion relates only to the Relevant Laws in force at the time of giving this Opinion. We neither express nor imply any opinion as to, and have not made any investigation of, the laws of any other jurisdiction. We are under, and assume, no obligation to inform any person of, or of the effect of, any future changes to those or any other laws;
- 4.2 the term "enforceable" as used in this Opinion means that the obligations assumed by each Company under the Documents are of a type that competent courts of a Relevant Jurisdiction would ordinarily enforce and does not mean that the obligations will necessarily be enforced in all circumstances in accordance with their terms;
- 4.3 without limiting paragraph 4.2, the enforceability of the Documents is subject to the following:
 - (a) equitable remedies, including injunctions and decrees of specific performance, will only be granted by a court of a Relevant Jurisdiction in its discretion and will not normally be ordered in respect of a monetary obligation when damages would be an adequate remedy;
 - (b) statutes of limitations;
 - (c) laws of administration, bankruptcy, liquidation, insolvency, receivership, reorganisation, moratoria, court schemes or similar laws affecting generally the enforcement of creditors' rights;

- (d) defences such as set-off, laches, forbearance, election, abatement or counterclaim and the doctrine of estoppel and waiver;
 - (e) the possible requirement to provide security as to costs, undertakings as to damages or indemnities for malicious or wrongful action;
 - (f) a document may not be admitted to be good, useful or available in law or equity for any purpose whatsoever unless applicable stamp duty has been paid;
 - (g) a contract or agreement may be set aside by a court of a Relevant Jurisdiction on application by a party if that party entered into the contract or agreement as a result of fraud, duress or unreasonable or unconscionable conduct on the part of another party or of a third person of which another party has actual or constructive knowledge;
- 4.4 without limiting paragraph 4.2, a court of a Relevant Jurisdiction may, and in some cases may be required to do so by statute, determine in its discretion the extent of enforceability of any provision of the Documents which provides for or, as the case may be, requires:
- (a) payment of default interest or any other similar amount (as this may be unenforceable as a penalty);
 - (b) severability of any provision;
 - (c) any calculation, determination or certificate to be conclusive and binding, including if that calculation, determination or certificate is fraudulent or manifestly inaccurate or has an unreasonable or arbitrary basis;
 - (d) a discretion or an opinion, if that discretion is exercised, or the opinion is formed, unreasonably;
 - (e) an indemnity for legal costs incurred by an unsuccessful litigant;
 - (f) written amendments and waivers (to the exclusion of oral or other amendments or waivers);
 - (g) an indemnity in respect of breach of law, fraud or other matter which on the basis of public policy would render the indemnity unenforceable;
 - (h) a company to procure another company to do or refrain from doing any act, matter or thing, if:
 - (1) it would be a breach of the duties of the directors of the second mentioned company to resolve or otherwise determine that the second mentioned company should do or refrain from doing that act, matter or thing;
 - (2) it would be illegal or impossible for the first mentioned company to procure the second mentioned company to do or refrain from doing that act, matter or thing; or

- (3) it would be illegal or impossible for the second mentioned company to do or refrain from doing that act, matter or thing;
- (i) a currency indemnity; or
- (j) service of a notice or document by a specified manner where applicable law specifies another manner,
- and our opinion on any such provision is limited accordingly;
- 4.5 a court of a Relevant Jurisdiction may refuse to exercise jurisdiction in certain circumstances, including where the court determines that there is a more suitable forum or that any order made by the court would not be effective, and a court may stay actions on the grounds of oppression or vexation;
- 4.6 a court of a Relevant Jurisdiction will not give effect to a choice of law to govern the Transaction Documents or a submission to the jurisdiction of certain courts if to do so would be contrary to public policy;
- 4.7 we have relied upon on-line computer searches of records at the Australian Securities and Investments Commission made on 29 June 2006 in respect of each Company, however, those records are not necessarily complete or up-to-date. We have not made any other searches of any other records (public or otherwise);
- 4.8 we have not been responsible, in relation to the Documents or anything else in connection with the transactions contemplated by the Documents, for investigating or verifying the completeness, accuracy, materiality or relevance of any facts or statements of fact or the reasonableness or pertinence of any statement of fact or whether any facts or statements of fact have not been disclosed or whether there are, or are not, reasonable grounds for any opinion or statement as to any future matter or whether or not the person making the statement or expressing the opinion believes it to be complete, accurate, material or relevant;
- 4.9 in relation to our opinion in paragraphs 1.2, 1.3 and 1.4 we have relied upon an examination of the constitution of each Company (as set out in annexure 2);
- 4.10 only the Acting Person has any knowledge in relation to the things dealt within in this opinion. We are not liable if any partner or solicitor of this firm other than the Acting Person has any knowledge which would render our assumptions or qualifications incorrect; we have not made any investigation as to whether any partner or solicitor of this firm other than the Acting Person has any such knowledge;
- 4.11 a creditor's rights may be affected by a specific court order obtained under laws generally affecting creditor's rights (including, without limitation, section 444F and Part 5.3A Division 13 of the Corporations Act) or by laws (including, without limitation, Part 5.3A (Administration), Part 5.7B Division 2 (voidable transactions) or section 566 (effect of floating charge) of the Corporations Act) and defences generally affecting creditors' rights;

4.12 we express no opinion as to:

- (a) whether a judgment for a monetary amount would be given in a currency other than Australian dollars, although decisions of English courts allowing judgments in a foreign currency have been followed in the courts of Victoria, but not in Queensland;
- (b) the date on which a conversion from foreign currency would be made for the purpose of enforcing a judgment; or
- (c) the validity, assignability or enforceability of any contract, debt or other property which may be subject to a security;

4.13 court proceedings may be stayed if the subject of the proceedings is concurrently before another court;

4.14 unless the Reserve Bank of Australia has given specific approval under the Banking (Foreign Exchange) Regulations, certain payments, deposits and dealings relating to or derived from property, securities or funds owned or controlled directly or indirectly by, and certain payments and transfers to, by the order of, by or on behalf of, for the benefit of or the credit of:

- (a) proscribed governments (and their statutory authorities, agencies and entities) or persons associated with proscribed governments (which at the date of this opinion does not include the United States of America);
- (b) nationals of proscribed countries (which at the date of this opinion does not include the United States of America); and
- (c) proscribed organisations or persons associated with proscribed organisations (which at the date of this opinion does not include any addressee),

are prohibited;

4.15 in addition to the above, other legislation and regulations in Australia also restrict or prohibit payments, transactions and dealings with assets having a proscribed connection with certain countries (which at the date of this opinion does not include the United States of America) or proscribed persons or entities subject to international sanctions associated with terrorism and assets derived from or generated by any such assets; and

4.16 our conclusions on stamp duties payable in the State of Victoria on, or in connection with, the Transaction Documents are based upon our interpretation of the applicable stamp duty legislation and practice in the State of Victoria. The relevant stamp duty authority may interpret the legislation differently, seek to impose ad valorem stamp duty on, or in connection with, the Transaction Documents and ultimately succeed (including payment of a penalty), however our conclusions accord with what we believe to be a proper interpretation of applicable legislation.

5 Benefit and reliance

This Opinion is given for the sole benefit of the addressees and only in relation to the Transaction Documents and, except with our prior written consent, may not be:

- 5.1 transmitted or disclosed to any other person;
- 5.2 used or relied upon by any other person or used or relied upon by you for any other purpose; or
- 5.3 filed with any government agency or other person or quoted or referred to in any public document, except to regulatory authorities to whose jurisdiction you are subject.

This Opinion is governed by the laws of the Opinion Jurisdiction.

This Opinion is strictly limited to the matters stated in it and does not apply by implication to other matters. We are not responsible for, and have not provided, any advice on the legal effect of the assumptions and qualifications set out in this opinion. Persons entitled to rely on this opinion should obtain their own legal advice on the effect, completeness and extent of application of those assumptions and qualifications.

This Opinion is given in respect of and is limited to the Relevant Laws as applied by the courts of the Relevant Jurisdictions which are in force at 9.00am on the date of this letter.

Yours faithfully


Freehills

Schedule 1 – Documents

We have examined only the following documents:

- 1 Demand note guaranty given by FinCo for the benefit of Transurban (895) US Holdings LLC, a Delaware limited liability company (**Demand Note Guaranty**);
- 2 Demand note given by TIML in favour of Transurban (895) US Holdings LLC, a Delaware limited liability company (**Demand Note**);
- 3 a copy of an extract of the minutes of a meeting of the board of directors of FinCo (attached as annexure 1 of this Opinion);
- 4 a copy of an extract of the minutes of a meeting of the board of directors of TIML (attached as annexure 1 of this Opinion);
- 5 a certified copy of the constitution of FinCo (attached as annexure 2 of this Opinion);
- 6 a certified copy of the constitution of TIML (attached as annexure 2 of this Opinion);
- 7 a copy of the Trust Deed (attached as annexure 3 of this Opinion); and
- 8 the documents arising from the searches at the Australian Securities and Investments Commission referred to in paragraph 4.7.



Schedule 2 – Definitions

In this Opinion expressions defined in this Opinion or in a Document have the meanings given in this Opinion or that Document and:

Acting Person	means Simon Gutkin and John McKenna;
Administrative Agent	means DEPFA Bank plc;
Australia	means the Commonwealth of Australia;
Collateral Agent	means Wells Fargo Bank, N.A.;
Company	means TIML or FinCo and "Companies" means each of FinCo and TIML;
Company Extract	means the documents in schedule 1(3) and (4);
Corporations Act	means the Corporations Act 2001 (Cth);
Documents	means each of the documents listed in Schedule 1;
Lender	means DEPFA Bank plc or Bayerische Hypo- und Vereinsbank AG, New York Branch or Banco Espirito Santo, S.A.;
Loan Agreement	means the loan agreement dated 29 June 2006 between Transurban (895) US Holdings LLC, each Lender, each Mandated Lead Arranger and the Administrative Agent;
Mandated Lead Arranger	means DEPFA Bank plc or Bayerische Hypo- und Vereinsbank AG, New York Branch or Banco Espirito Santo de Investimento, S.A.;
Opinion	means this letter;
Opinion Jurisdiction	means the laws of the State of Victoria;
Relevant Jurisdiction	means, as the context requires, the State of Victoria and Australia;
Relevant Laws	means the laws of the Relevant Jurisdictions;
Resolution	means a resolution of a board of directors of each Company;
Tax Act	means the Income Tax Assessment Act 1936 (Cth) or the Income Tax Assessment Act 1997 (Cth) as applicable;
Trust	means the trust known as the Transurban (895) Trust;
Trust Deed	means the trust deed constituting the Transurban (895) Finance Trust; and
Transaction Documents	means the documents numbered 1 and 2 in schedule 1.

Annexure 1 – Extracts of minutes

Transurban Finance Company Pty Ltd ABN 65 098 539 452
(Company)

This is a record of a written resolution of all of the directors of the Company made on
2/ June 2006

Documents:

The directors were advised that the negotiation and drafting of the documents listed in the schedule to which the Company is expressed to be a party (each an **Approved Document**) is being progressed. The effect of each Approved Document was explained to each director, considered and discussed.

Effect of documents:

The directors determined that, having regard to all the relevant circumstances and the terms of the Approved Documents, the execution, delivery and performance of the Company's obligations under each Approved Document and the transactions evidenced by the Approved Documents are for the Company's benefit and in the best interests of the Company.

Execution of Approved Documents:

Resolved that:

- 1 the form, terms and provisions of;
 - 2 the transactions contemplated by; and
 - 3 the performance of the obligations of the Company under,
- each Approved Document (and any documents or instruments incidental or related to the Approved Documents and the transactions contemplated by the Approved Documents (**Incidental Documents**)) (as each Approved Document and Incidental Document may be approved severally by any director or secretary) are approved and accordingly the Approved Documents and the Incidental Documents be executed and delivered on behalf of, and in the name of, the Company by any authorised signatory listed below (**Authorised Signatory**) or by any two directors or a director and secretary of the Company in accordance with section 127(1) or section 127(2) of the Corporations Act 2001.

Authorised Signatories:

Resolved that each of:

- (a) Kimberley Edwards;
- (b) James Christopher Brant;
- (c) Paul O'Shea;
- (d) Mark Licciardo; and
- (e) Victor Howard,

be appointed severally as Authorised Signatories of the Company and be authorised severally to be Authorised Signatories to do everything that is required to be, or capable of being, done by the Company or by an Authorised Signatory (including, but not limited to, certification, execution and delivery of documents) under or in relation to the Approved Documents and the Incidental Documents.

Incidental matters:

Resolved:

- 1 that the Company and severally each director, secretary or Authorised Signatory of the Company for and on behalf of the Company, be authorised to do any thing (including, but not limited to, certification, execution and delivery of documents) required to be done, capable of being done or advisable to do under, in accordance with or incidental to any of the Approved Documents or the Incidental Documents, the transactions evidenced by the Approved Documents or the Incidental Documents or any of the above resolutions; and
- 2 that any director or secretary severally may, as conclusively evidenced by his or her execution or witnessing, approve any amendment to an Approved Document or an Incidental Document (whether or not material and whether or not involving changes to the parties).

Signed as a correct record of a circular written resolution of all the directors of the Company.



Company Secretary 261 6 106

Schedule – Approved Documents

- 1 Demand note guaranty given by the Company for the benefit of Transurban (895) US Holdings LLC, a Delaware limited liability company; and
- 2 such other deeds, agreements, contracts, assignments, letters, notices, certificates, undertakings and instruments (including negotiable instruments) and other documents which are:
 - 2.1 necessary to give effect to the transactions contemplated by any document referred to in item 1 above;
 - 2.2 required or contemplated by, or which may become necessary or desirable in connection with, any document referred to in item 1 above;
 - 2.3 amend, supplement or restate any document referred to in item 1 above; and
 - 2.4 required to be executed for the purpose of the any document referred to in item 1 above or the transactions contemplated thereby.

**Transurban Infrastructure Management Limited ABN 27 098 147 678
(Company)**

This is a record of a written resolution of all of the directors of the Company made on **27**
June 2006

Documents:

The directors were advised that the negotiation and drafting of the documents listed in the schedule to which the Company is expressed to be a party (each an **Approved Document**) are being progressed. The effect of each Approved Document was explained to each director, considered and discussed.

Effect of documents:

The directors determined that, having regard to all the relevant circumstances and the terms of the Approved Documents, the execution, delivery and performance of the Company's obligations under each Approved Document and the transactions evidenced by the Approved Documents:

- 1 are for the Company's benefit and in the best interests of the Company; and
- 2 are in the best interests of, and for the benefit of, each beneficiary of the Transurban (895) Finance Trust and are authorised by the constitution or trust deed constituting that trust.

Execution of Approved Documents:

Resolved that:

- 1 the form, terms and provisions of;
 - 2 the transactions contemplated by; and
 - 3 the performance of the obligations of the Company under,
- each Approved Document (and any documents or instruments incidental or related to the Approved Documents and the transactions contemplated by the Approved Documents (**Incidental Documents**)) (as each Approved Document and Incidental Document may be approved severally by any director or secretary) are approved and accordingly the Approved Documents and the Incidental Documents be executed and delivered on behalf of, and in the name of, the Company by any authorised signatory listed below (**Authorised Signatory**) or by any two directors or a director and secretary of the Company in accordance with section 127(1) or section 127(2) of the Corporations Act 2001.

Authorised Signatories: Resolved that each of:

- (a) Kimberley Edwards;

- (b) James Christopher Brant;
- (c) Paul O'Shea;
- (d) Mark Licciardo; and
- (e) Victor Howard,

be appointed severally as Authorised Signatories of the Company and be authorised severally to be Authorised Signatories to do everything that is required to be, or capable of being, done by the Company or by an Authorised Signatory (including, but not limited to, certification, execution and delivery of documents) under or in relation to the Approved Documents and the Incidental Documents.

Incidental matters:

Resolved:


- 1 that the Company and severally each director, secretary or Authorised Signatory of the Company for and on behalf of the Company, be authorised to do any thing (including, but not limited to, certification, execution and delivery of documents) required to be done, capable of being done or advisable to do under, in accordance with or incidental to any of the Approved Documents or the Incidental Documents, the transactions evidenced by the Approved Documents or the Incidental Documents or any of the above resolutions; and
- 2 that any director or secretary severally may, as conclusively evidenced by his or her execution or witnessing, approve any amendment to an Approved Document or an Incidental Document (whether or not material and whether or not involving changes to the parties).

Execution of Approved Documents by trust:

Resolved that:

- 1 the Company (as trustee of the Transurban Holdings Trust) and as sole unitholder of the Transurban (895) Finance Trust, authorises the execution of the Approved Documents; and
- 2 any two directors or a director and a secretary of the Company are authorised to execute any record of resolution of unitholders.

Signed as a correct record of a circular written resolution of all the directors of the Company.


Company Secretary 27/6/06

Schedule – Approved Documents

- 1 Demand note given by the Company (in its capacity as trustee of the Transurban (895) Finance Trust) in favour of Transurban (895) US Holdings LLC, a Delaware limited liability company; and
- 2 such other deeds, agreements, contracts, assignments, letters, notices, certificates, undertakings and instruments (including negotiable instruments) and other documents which are:
 - 2.1 necessary to give effect to the transactions contemplated by any document referred to in item 1 above;
 - 2.2 required or contemplated by, or which may become necessary or desirable in connection with, any document referred to in item 1 above;
 - 2.3 amend, supplement or restate any document referred to in item 1 above; or
 - 2.4 required to be executed for the purpose of the any document referred to in item 1 above or the transactions contemplated thereby.

Annexure 2 – Constitutions

Constitution

Transurban Finance Company Pty Ltd
ACN 098 539 452

A company limited by shares

*This version
includes
amendments by
resolution
August 2002*

I certify that this is a true and complete copy of the original
and that this page and the preceding 44 pages are the
complete document



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TRANSURBAN FINANCE COMPANY PTY LTD

A company limited by shares

Constitution

1 Preliminary

1.1 Definitions and interpretation

(a) In this constitution:

Act means the Corporations Act 2001;

City Link Finance Document has the same definition as in the Security Trust Deed;

Commonwealth means the Commonwealth of Australia and its external territories;

representative, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Act or a corresponding previous law;

seal means any common seal, duplicate seal, share seal or certificate seal of the company; and

Security Trust Deed means the security trust deed, dated on or about June 2002, between J.P. Morgan Institutional Services Australia Limited, ABN AMRO Australia Limited, Transurban Finance Company Pty Ltd ACN 098 539 452 and others;

Transaction Document means:

- (1) the Security Trust Deed;
- (2) a Security (as defined in the Security Trust Deed);
- (3) a Senior Finance Document (as defined in the Security Trust Deed);
- (4) a Subordinated Facility Document (as defined in the Security Trust Deed);
- (5) an Inter-entity Loan Agreement (as defined in the Security Trust Deed);
- (6) the Co-ordination Deed (as defined in the Security Trust Deed);
- (7) any document entered into by the Borrower (as defined in the Security Trust Deed), in accordance with the Transaction Documents, for the purpose of incurring additional Finance Debt (as defined in the Security Trust Deed); or
- (8) any other document which the Security Trustee acting on the instructions of the Majority Secured Creditors and the Security Providers (as defined in the Security Trust Deed) agree at any time,

now or in the future, is a Transaction Document for the purposes of the Security Trust Deed;

transmission event means:

- (1) in respect of a member who is an individual:
 - (A) the death of the member;
 - (B) the bankruptcy of the member; or
 - (C) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
- (2) in respect of a member who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member;

Transurban Group means, collectively, each of the following:

- (1) Transurban Finance Company Pty Ltd ACN 098 539 452;
 - (2) Transurban Finance Trust – City Link;
 - (3) Transurban Holding Trust ARSN 098 807 419;
 - (4) City Link Trust ARSN 096 270 085;
 - (5) City Link Extension Pty Ltd ABN 40 082 058 615;
 - (6) CityLink Melbourne Limited ABN 65 070 810 768; and
 - (7) Transurban Holdings Limited ACN 098 143 429.
- (b) A reference in a rule to a partly paid share is a reference to a share on which there is an amount unpaid.
 - (c) A reference in a rule relating to partly paid shares to a call or an amount called in respect of a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date.
 - (d) A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or representative.
 - (e) A director is to be taken to be present at a meeting of directors if the director is present in person or by alternate director.
 - (f) Where a rule establishes an office of chairperson, the chairperson may be referred to as chair or as chairman or chairwoman, as the case requires.
 - (g) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
 - (h) Unless the contrary intention appears in this constitution,
 - (1) words importing the singular include the plural and words importing the plural include the singular;
 - (2) words importing a gender include every other gender;
 - (3) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body

politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);

- (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing it, whether passed by the same or another government agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (6) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (i) In this constitution headings and boldings are for convenience only and do not affect its interpretation.

1.2 Application of the Act

- (a) This constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the company.
- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision of the Act.
- (c) Subject to rule 1.2(b), unless the contrary intention appears, an expression in a rule that is defined for the purposes of the Act has the same meaning as in the Act.

1.3 Exercise of powers

- (a) The company may, in any manner permitted by the Act:
 - (1) exercise any power;
 - (2) take any action; or
 - (3) engage in any conduct or procedure,which under the Act a company limited by shares may exercise, take or engage in if authorised by its constitution.
- (b) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect

to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (4) the delegation may include the power to delegate;
 - (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
 - (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

1.4 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the company on a winding up or otherwise, may be paid, with the agreement of the holder or

pursuant to the terms of issue of the share, in the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

1.5 Single member company

If at any time the company has only one member then, unless the contrary intention appears:

- (a) a reference in a rule to the "members" is a reference to that member; and
- (b) without limiting 1.5(a), a rule which confers a power or imposes and obligation on the members to do a particular act or thing confers that power or imposes that obligation on that member.

1.6 Single director company

If at any time the minimum number of directors fixed under this constitution is 1 and the company in fact has only 1 director then, unless the contrary intention appears:

- (a) a reference in a rule to "the directors" is a reference to that director; and
- (b) without limiting rule 1.6(a), an rule which confers a power or imposes an obligation on the directors to do a particular act or thing confers that power or imposes that obligation on that director.

2 Sole Purpose

Notwithstanding anything else in this constitution, the company will not carry on any business or engage in any activity other than:

- (a) receiving money from, or providing money to, any member of the Transurban Group (whether by way of dividend or otherwise);
- (b) incurring financial indebtedness; or
- (c) providing financial accommodation to any member of the Transurban Group

including (but not limited to) under or in respect of a negotiable or other financial instrument or discounting arrangement (the **Business**), or any activity reasonably incidental to the Business (including executing any document, including without limitation, the Transaction Documents and City Link Finance Documents, performing any obligation under any such document and undertaking any transaction contemplated by any such document, and giving any required guarantee, indemnity or security, including without limitation, any requisite third party security, unless otherwise agreed by the Company).

3 Share capital

3.1 Shares

- (a) Without prejudice to any special rights conferred on the holders of any shares or class of shares, the directors may issue or grant options in respect of, or otherwise dispose of, shares to such persons, for such price, on such conditions, at such times and with such preferred, deferred or other special rights or special restrictions, whether with regard to dividend, voting, return of capital, participation in the property of the company on a winding up or otherwise, as the directors think fit.
- (b) In particular, the directors may differentiate between the holders of partly paid shares as to the amount of calls to be paid and the time for payment.

3.2 Preference shares

- (a) The company may issue preference shares including preference shares which are, or at the option of the company are, liable to be redeemed.
- (b) The certificate issued by the company for each preference share must specify or provide for the determination of:
 - (1) the rate of dividend applicable to the share and the times at which dividends are to be paid;
 - (2) the amount paid or payable on the issue of the share and, if that amount is not payable on issue, the amount unpaid on the share;
 - (3) the number of votes that may be exercised by the holder in respect of the share on a poll;
 - (4) in the case of a redeemable preference share, the time and place for redemption of the share; and
 - (5) any restrictions on the right to transfer the share.
- (c) The dividend payable in respect of a preference share:
 - (1) may be at a fixed or variable rate;
 - (2) unless otherwise stated in the certificate for the share, will be taken to accrue from day to day; and
 - (3) unless otherwise stated in the certificate for the share, is payable in respect of the amount for the time being paid on the preference share.
- (d) Each preference share confers on its holder:
 - (1) the right to payment out of the profits of the company of a cumulative preferential dividend at the rate and at the times specified in, or determined in accordance with, the certificate for the share in priority to the payment of any dividend on any other class of shares; and
 - (2) the right in a winding up or reduction of capital and, in the case of a redeemable preference share, on redemption to payment in cash in priority to any other class of shares of:

- (A) the amount of any dividend accrued but unpaid on the share at the date of winding up or reduction of capital or, in the case of a redeemable preference share, the date of redemption; and
- (B) any amount paid on the share.
- (e) A preference share does not confer on its holder any right to participate in the profits or property of the company, whether on a winding up, reduction of capital or otherwise, except as set out in rule 3.2(d).
- (f) The holder of a preference share has the same right as the holder of an ordinary share to receive notice of and to attend a general meeting and to receive a copy of any documents to be laid before that meeting.
- (g) A preference share does not entitle its holder to vote at any general meeting of the company except in the following circumstances:
 - (1) on a proposal:
 - (A) to reduce the share capital of the company;
 - (B) that affects rights attached to the share;
 - (C) to wind up the company; or
 - (D) for the disposal of the whole of the property, business and undertaking of the company;
 - (2) during a period during which a dividend or part of a dividend on the share is in arrears; or
 - (3) during the winding up of the company.
- (h) The holder of a preference share who is entitled to vote in respect of that share under rule 3.2(g) is, on a poll, entitled to the number of votes specified in, or determined in accordance with, the certificate for the share.
- (i) In the case of a redeemable preference share, the company must, at the time and place for redemption specified in, or determined in accordance with, the certificate for the share, redeem the share and, on receiving the certificate for the share, pay to or at the direction of the holder the amount payable on redemption of the share.
- (j) A holder of a preference share must not transfer or purport to transfer, and the directors must not register a transfer of, the share if the transfer would contravene any restrictions on the right to transfer the share set out in the certificate for the share.

3.3 Joint holders of shares

Where 2 or more persons are registered as the holders of a share they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) they and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the share;
- (b) subject to rule 3.3(a), on the death of any 1 of them the survivor or survivors are the only person or persons the company will recognise as having any title to the share;

- (c) any 1 of them may give effectual receipts for any dividend, interest or other distribution or payment in respect of the share;
- (d) except in the case of persons jointly entitled to be registered as the holders of a share under rule 6.4(c), the company is not bound to register more than 3 persons as joint holders of the share;
- (e) the company is not bound to issue more than 1 certificate in respect of the share; and
- (f) delivery of a certificate for the share to any 1 of them is sufficient delivery to all of them.

3.4 Equitable and other claims

- (a) Except as otherwise required by law or provided by this constitution, the company is entitled to treat the registered holder of a share as the absolute owner of that share and is not:
 - (1) compelled in any way to recognise a person as holding a share upon any trust, even if the company has notice of that trust; or
 - (2) compelled in any way to recognise, or bound by, any equitable, contingent, future or partial claim to or interest in a share on the part of any other person except an absolute right of ownership in the registered holder, even if the company has notice of that claim or interest.
- (b) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in rule 3.4(b) limits the operation of rule 3.4(a).

4 Calls, forfeiture, indemnities, lien and surrender

4.1 Calls

- (a) Subject to this constitution and to the terms upon which any shares may be issued, the directors may make calls upon the members in respect of any money unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times.
- (b) A call may be required by the directors to be paid by instalments.
- (c) Upon receiving at least 14 days' notice specifying the time and place of payment, each member must pay to the company by the time and at the place so specified the amount called on the member's shares.
- (d) A call is to be taken as having been made when the resolution of the directors authorising the call was passed.
- (e) The directors may revoke or postpone a call or extend the time for payment.
- (f) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any member does not invalidate the call.

- (g) If a sum called in respect of a share is not paid in full by the day appointed for payment of the sum, the person from whom the sum is due must pay:
 - (1) interest on so much of the sum as is unpaid from time to time, from the date appointed for payment of the sum to the date of actual payment, at a rate determined under rule 4.9; and
 - (2) any costs, expenses or damages incurred by the company in relation to the non-payment or late payment of the sum.
- (h) Any sum unpaid on a share that, by the terms of issue of the share, becomes payable on issue or at a fixed date:
 - (1) is to be treated for the purposes of this constitution as if that sum was payable pursuant to a call duly made and notified; and
 - (2) must be paid on the date on which it is payable under the terms of issue of the share.
- (i) The directors may, to the extent permitted by law, waive or compromise all or any part of any payment due to the company under the terms of issue of a share or under this rule 4.1.

4.2 Proceedings for recovery of calls

- (a) In an action or other proceedings for the recovery of a call, or interest or costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:
 - (1) the name of the defendant is entered in the register as the holder or 1 of the holders of the share in respect of which the call is claimed;
 - (2) the resolution making the call is recorded in the minute book; and
 - (3) notice of the call was given to the defendant in accordance with this constitution,is conclusive evidence of the debt and it is not necessary to prove the appointment of the directors who made the call or any other matter.
- (b) In rule 4.2(a), "defendant" includes a person against whom a set-off or counter-claim is alleged by the company and "action or other proceedings for the recovery of a call" is to be construed accordingly.

4.3 Payments in advance of calls

- (a) The directors may accept from a member the whole or a part of the amount unpaid on a share although no part of that amount has been called.
- (b) The directors may authorise payment by the company of interest upon the whole or any part of an amount accepted under rule 4.3(a), until the amount becomes payable, at a rate agreed between the directors and the member paying the amount.
- (c) The directors may repay to a member all or any of the amount accepted under rule 4.3(a).

4.4 Forfeiture of partly paid shares

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the directors may serve a notice on that member:
 - (1) requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the company by reason of the non-payment or late payment of the call or instalment;
 - (2) naming a further day (at least 14 days after the date of service of the notice) by which, and a place at which, the amount payable under rule 4.4(a)(1) is to be paid; and
 - (3) stating that, in the event of non-payment of the whole of the amount payable under rule 4.4(a)(1) by the time and at the place named, the shares in respect of which the call was made will be liable to be forfeited.
- (b) If the requirements of a notice served under rule 4.4(a) are not complied with, the directors may by resolution forfeit any share in respect of which the notice was given at any time after the day named in the notice and before the payment required by the notice is made.
- (c) A forfeiture under rule 4.4(b) will include all dividends, interest and other money payable by the company in respect of the forfeited share and not actually paid before the forfeiture.
- (d) Where a share has been forfeited:
 - (1) notice of the resolution must be given to the member in whose name the share stood immediately before the forfeiture; and
 - (2) an entry of the forfeiture, with the date, must be made in the register of members.
- (e) Failure to give the notice or to make the entry required under rule 4.4(d) does not invalidate the forfeiture.
- (f) A forfeited share becomes the property of the company and the directors may sell, reissue or otherwise dispose of the share in such manner as they think fit and, in the case of reissue or other disposal, with or without any money paid on the share by any former holder being credited as paid up.
- (g) A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay, and must immediately pay, to the company:
 - (1) all calls, instalments, interest, costs, expenses and damages owing in respect of the shares at the time of the forfeiture; and
 - (2) interest on so much of the amount payable under rule 4.4(g)(1) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under rule 4.9.
- (h) Except as otherwise provided by this constitution, the forfeiture of a share extinguishes all interest in, and all claims and demands against the

company in respect of, the forfeited share and all other rights incident to the share.

- (i) The directors may:
 - (1) exempt a share from all or any part of this rule 4.4;
 - (2) waive or compromise all or any part of any payment due to the company under this rule 4.4; and
 - (3) before a forfeited share has been sold, reissued or otherwise disposed of, annul the forfeiture upon such conditions as they think fit.

4.5 Indemnity for payments by the company

If the company becomes liable under any law to make any payment:

- (a) in respect of shares held solely or jointly by a member;
- (b) in respect of a transfer or transmission of shares by a member;
- (c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a member; or
- (d) otherwise for or on account of or in respect of a member,

whether as a consequence of:

- (e) the death of that member;
- (f) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member;
- (g) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member; or
- (h) any other act or thing,

then, in addition to any right or remedy that law may confer on the company:

- (i) the member or, if the member is dead, the member's legal personal representative must:
 - (1) fully indemnify the company against that liability;
 - (2) reimburse the company for any payment made under or as a consequence of that law immediately on demand by the company; and
 - (3) pay interest on so much of the amount payable to the company under rule 4.5(i)(2) as is unpaid from time to time, from the date the company makes a payment under that law until the date the company is reimbursed in full for that payment under rule 4.5(i)(2), at a rate determined under rule 4.9;
- (j) the company has a lien upon all dividends, interest and other money payable in respect of the shares held solely or jointly by that member or that member's legal personal representative for all money payable to the company under this rule 4.5;

- (k) the company may refuse to register a transfer of any shares by or to that member or that member's legal personal representative until all money payable to the company under this rule 4.5 has been paid; and
- (l) the directors may:
 - (1) exempt a share from all or any part of this rule 4.5; and
 - (2) waive or compromise all or any part of any payment due to the company under this rule 4.5.

4.6 Lien on shares

- (a) The company has a first and paramount lien on:
 - (1) each partly paid share for all money (whether presently payable or not) called or otherwise due under this constitution in respect of that share; and
 - (2) all shares registered in the name of a sole holder for all money presently payable by the holder or the holder's estate to the company, including any money payable under rule 4.5.
- (b) The company's lien on a share extends to all dividends payable in respect of the share and to the proceeds of sale of the share.
- (c) The directors may sell any share on which the company has a lien in such manner as they think fit where:
 - (1) an amount in respect of which a lien exists under this rule 4.6 is presently payable; and
 - (2) the company has, not less than 14 days before the date of the sale, given to the registered holder of the share a notice in writing setting out, and demanding payment of, such amount in respect of which the lien exists as is presently payable.
- (d) Registration by the company of a transfer of shares on which the company has a lien without giving to the transferee notice of its claim releases the company's lien in so far as it relates to sums owing by the transferor or any predecessor in title.
- (e) The directors may:
 - (1) exempt a share from all or any part of this rule 4.6; and
 - (2) waive or compromise all or any part of any payment due to the company under this rule 4.6.

4.7 Surrender of shares

- (a) The directors may accept a surrender of a share by way of compromise of any claim as to whether or not that share has been validly issued or in any other case where the surrender is within the powers of the company.
- (b) Any share so surrendered may be sold, reissued or otherwise disposed in the same manner as a forfeited share.

4.8 General provisions applicable to a disposal of shares under this constitution

- (a) A reference in this rule 4.8 to a disposal of shares under this constitution is a reference to:
 - (1) any sale, reissue or other disposal of a forfeited share under rule 4.4(f) or a surrendered share under rule 4.7; and
 - (2) any sale of a share on which the company has a lien under rule 4.6(c).
- (b) Where any shares are disposed of under this constitution, the directors may:
 - (1) receive the purchase money or consideration given for the shares on the disposal;
 - (2) effect a transfer of the shares and execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the disposal; and
 - (3) register as the holder of the shares the person to whom the shares have been disposed of.
- (c) A person to whom shares are disposed of under this constitution is not bound to see to the regularity or validity of, or to the application of the purchase money or consideration on, the disposal and the title of that person to the shares is not affected by any irregularity or invalidity in the forfeiture or surrender of the shares or the exercise of the company's lien on the shares (as the case may be).
- (d) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only and is against the company exclusively.
- (e) The proceeds of a disposal of shares under this constitution must be applied in the payment of:
 - (1) first, the expenses of the disposal;
 - (2) second, all money presently payable by the former holder whose shares have been disposed of;
 - (3) and the balance (if any) must be paid (subject to any lien that exists under rule 4.6 in respect of money not presently payable) to the former holder, on the former holder delivering to the company the certificate for the shares that have been disposed of or such other proof of title as the directors may accept.
- (f) A statement in writing signed by a director or secretary of the company to the effect that a share in the company has been:
 - (1) duly forfeited under rule 4.4(b);
 - (2) duly sold, reissued or otherwise disposed of under rule 4.4(f) or rule 4.7; or
 - (3) duly sold under rule 4.6(c),

on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the company to forfeit, sell, reissue or otherwise dispose of the share.

4.9 Interest payable by member

- (a) For the purposes of rules 4.1(g)(1), 4.4(g)(2) and 4.5(i)(3), the rate of interest payable to the company is:
 - (1) if the directors have fixed a rate, the rate so fixed; or
 - (2) in any other case, 8% per annum.
- (b) Interest payable under rules 4.1(g)(1), 4.4(g)(2) and 4.5(i)(3) accrues daily and may be capitalised monthly or at such other intervals as the directors think fit.

5 Distribution of profits

5.1 Dividends

- (a) The directors may pay any interim and final dividends as, in their judgment, the financial position of the company justifies.
- (b) The directors may pay any dividend required to be paid under the terms of issue of a share.
- (c) The payment of a dividend does not require any confirmation by a general meeting.
- (d) Subject to any rights or restrictions attached to any shares or class of shares:
 - (1) all dividends in respect of shares must be paid in proportion to the number of shares held by a member but where shares are partly paid all dividends must be apportioned and paid proportionately to the amounts paid or credited on the partly paid shares;
 - (2) all dividends must be apportioned and paid proportionately to the amounts so paid or credited during any portion or portions of the period in respect of which the dividend is paid;
 - (3) for the purposes of rules 5.1(d)(1) and (2), an amount paid or credited as paid on a share in advance of a call is to be ignored; and
 - (4) interest is not payable by the company in respect of any dividend.
- (e) The directors may fix a record date in respect of a dividend, with or without suspending the registration of transfers from that date under rule 6.3.
- (f) A dividend in respect of a share must be paid to the person who is registered, or entitled under rule 6.1(c) to be registered, as the holder of the share:
 - (1) where the directors have fixed a record date in respect of the dividend, on that date; or

- (2) where the directors have not fixed a record date in respect of that dividend, on the date fixed for payment of the dividend,
- and a transfer of a share that is not registered, or left with the company for registration in accordance with rule 6.1(b), on or before that date is not effective, as against the company, to pass any right to the dividend.
- (g) The directors when determining a dividend is payable may:
- (1) direct payment of the dividend wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the company or of another body corporate, either generally or to specific shareholders; and
 - (2) direct that the dividend be paid to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source or generally.
- (h) The directors may deduct from any dividend payable to a member all sums of money presently payable by the member to the company and apply the amount deducted in or towards satisfaction of the money owing.
- (i) Where a person is entitled to a share as a result of a transmission event, the directors may, but are not obliged to, retain any dividends payable in respect of that share until that person becomes registered as the holder of the share or transfers it.
- (j) Without prejudice to any other method of payment the directors may adopt, any dividend, interest or other money payable in cash in respect of shares may be paid by cheque and sent by post:
- (1) to the address of the holder as shown in the register of members, or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in that register; or
 - (2) to such other address as the holder or joint holders in writing directs or direct.
- (k) A cheque sent under rule 5.1(j) may be made payable to bearer or to the order of the member to whom it is sent or such other person as the member may direct and is sent at the member's risk.

5.2 Capitalisation of profits

- (a) Subject to any rights or restrictions attached to any shares or class of shares, the directors may capitalise and distribute among such of the members as would be entitled to receive dividends and in the same proportions, any amount:
- (1) forming part of the undivided profits of the company;
 - (2) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the company;
 - (3) arising from the realisation of any assets of the company; or

- (4) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
 - (1) in paying up in full shares in or other securities of the company to be issued to members;
 - (2) in paying up any amounts unpaid on shares in or other securities of the company held by the members; or
 - (3) partly as specified in rule 5.2(b)(1) and partly as specified in rule 5.2(b)(2),
and such an application must be accepted by the members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.
- (c) Rules 5.1(e) and (f) apply, so far as they can and with such changes as are necessary, to a capitalisation of an amount under this rule 5.2 as if references in those rules to a dividend and to the date a dividend is declared were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this rule 5.2 .

5.3 Ancillary powers

- (a) For the purpose of giving effect to any resolution for the satisfaction of a dividend in the manner set out in rule 5.1(g)(1) or by the capitalisation of any amount under rule 5.2, the directors may:
 - (1) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation;
 - (2) fix the value for distribution of any specific assets;
 - (3) pay cash or issue shares or other securities to any members in order to adjust the rights of all parties;
 - (4) vest any such specific assets, cash, shares or other securities in any trustee upon such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
 - (5) authorise any person to make, on behalf of all the members entitled to any further shares or other securities as a result of the distribution or capitalisation, an agreement with the company or another body corporate providing, as appropriate:
 - (A) for the issue to them of such further shares or other securities credited as fully paid up; or
 - (B) for the payment by the company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in this rule 5.3(a)(5) is effective and binding on all members concerned.

- (b) If the company distributes to members (either generally or to specific members) securities in the company or in another body corporate or trust (whether as a dividend or otherwise and whether or not for value), each of those members appoints the company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.

5.4 Reserves

- (a) Subject to this constitution, the directors may set aside out of the profits of the company such reserves or provisions for such purposes as they think fit.
- (b) The directors may appropriate to the profits of the company any amount previously set aside as a reserve or provision.
- (c) The setting aside of any amount as a reserve or provision does not require the directors to keep the amount separate from the other assets of the company or prevent the amount being used in the business of the company or being invested in such investments as the directors think fit.

5.5 Carry forward of profits

The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends or capitalised without transferring those profits to a reserve or provision.

6 Transfer and transmission of shares

6.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, a member may transfer all or any of the member's shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) An instrument of transfer referred to in rule 6.1(a) must:
 - (1) be signed by or on behalf of both the transferor and the transferee unless:
 - (A) the instrument of transfer relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (B) the transfer of the shares is effected by a document which is, or documents which together are, a proper transfer of those shares under the Act;
 - (2) if required by law to be stamped, be duly stamped;
 - (3) in the case of a transfer of partly paid shares, be endorsed by, or accompanied by an instrument executed by, the transferee to the effect that the transferee agrees to accept the shares subject to the terms and conditions on which the transferor held them and to

become a member and to be bound by the company's constitution;
and

- (4) be left for registration at the registered office of the company, or at such other place as the directors determine, accompanied by the certificate for the shares to which it relates (if any) and such other evidence as the directors may require to prove the title of the transferor or the transferor's right to the shares and to prove the right of the transferee to be registered as the owner of the shares.
- (c) Subject to the powers vested in the directors under rule 6.2 and rule 6.3, where the company receives an instrument of transfer in accordance with rule 6.1(b), the company must register the transferee named in the instrument as the holder of the shares to which it relates.
- (d) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.
- (e) The company must not charge a fee for the registration of a transfer of shares.
- (f) The company may retain any registered instrument of transfer for such period as the directors think fit.
- (g) Except in the case of fraud, the company must return any instrument of transfer which the directors decline to register to the person who deposited it with the company.
- (h) The directors may, to the extent permitted by law, waive all or any of the requirements of this rule 6.1.

6.2 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares.

6.3 Power to suspend registration of transfers

The directors may suspend the registration of transfers at such times and for such periods, not exceeding in total 30 days in any year, as they think fit.

6.4 Transmission of shares

- (a) In the case of the death of a member, the only persons the company will recognise as having any title to the member's shares or any benefits accruing in respect of those shares are:
 - (1) the legal personal representative of the deceased where the deceased was a sole holder; and
 - (2) the survivor or survivors where the deceased was a joint holder.
- (b) Nothing contained in rule 6.4(a) releases the estate of a deceased member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.

- (c) A person who becomes entitled to a share as a result of a transmission event may, upon producing the certificate for the share and such other evidence as the directors may require to prove that person's entitlement to the share, elect:
 - (1) to be registered as the holder of the share by signing and serving on the company a notice in writing stating that election; or
 - (2) to have some other person nominated by that person registered as the transferee of the share by executing a transfer of the share to that other person.
- (d) The rules relating to the right to transfer, and the registration of transfers of, shares apply, so far as they can and with such changes as are necessary, to any transfer under rule 6.4(c)(2) as if the relevant transmission event had not occurred and the transfer were signed by the registered holder of the share.
- (e) For the purpose of this constitution, where 2 or more persons are jointly entitled to any share in consequence of a transmission event they will, upon being registered as the holders of the share, be taken to hold the share as joint tenants and rule 3.3 will apply to them.
- (f) Notwithstanding rule 6.4(a), the directors may register a transfer of shares signed by a member prior to a transmission event even though the company has notice of the transmission event.

7 General meetings

7.1 Calling general meetings

- (a) The directors may, whenever they think fit, call and arrange to hold a general meeting.
- (b) A general meeting may be called and arranged to be held only as provided by this rule 7.1 or as provided by sections 249D, 249E, 249F and 249G of the Act.
- (c) The directors may change the venue for, postpone or cancel a general meeting unless the meeting is called and arranged to be held by the members or the court under the Act. If a general meeting is called and arranged to be held under section 249D of the Act the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member or members.

7.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Act and in the manner authorised by rule 15.1 to each person who is at the date of the notice:
 - (1) a member;
 - (2) a director; or

- (3) an auditor of the company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting.
- (c) A person may waive notice of any general meeting by notice in writing to the company.
- (d) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 7.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 7.2(c); or
 - (B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.
- (e) A person's attendance at a general meeting:
 - (1) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
 - (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting unless the person objects to considering the matter when it is presented.

7.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of:
 - (1) if the number of members entitled to vote is 2 or more- 2 of those members; or
 - (2) if only 1 member is entitled to vote - that member, present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (1) where the meeting was convened upon the requisition of members, the meeting must be dissolved; or
 - (2) in any other case:

- (A) the meeting stands adjourned to such day, and at such time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
- (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

7.4 Chairperson of general meetings

- (a) The chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,the members present must elect as chairperson of the meeting:
 - (4) another director who is present and willing to act; or
 - (5) if no other director willing to act is present at the meeting, a member who is present and willing to act.

7.5 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.
- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

7.6 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting and any such decision is for all purposes a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution:
 - (1) the chairperson of the meeting will not have a second or casting vote; and
 - (2) the proposed resolution is to be taken as having been lost.

- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands:
 - (1) by the chairperson of the meeting; or
 - (2) by any member present and having the right to vote on the resolution.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and (subject to rule 7.6(g)) either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.
- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.

7.7 Decisions without general meetings

The company may pass a resolution (except a resolution to remove an auditor) without a general meeting being held:

- (a) if all of the members entitled to vote on the resolution sign a document containing a statement that they are in favour of a resolution set out in the document; and
- (b) otherwise in accordance with the Act.

If a share is held jointly, each of the joint members must sign the document

7.8 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (1) on a show of hands, every member present in person or by proxy, attorney or representative has 1 vote; and
 - (2) on a poll, every member present has 1 vote for each share held by the member and in respect of which the member is entitled to vote.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or representative more than 1 member:

- (1) on a show of hands the person is entitled to 1 vote only despite the number of members the person represents;
 - (2) that vote will be taken as having been cast for all the members the person represents; and
 - (3) the person must not exercise that vote in a way which would contravene any directions given to the person in accordance with rule 7.9(f) in any instrument appointing the person as a proxy or attorney.
- (c) A joint holder may vote at any meeting in person or by proxy, attorney or representative as if that person was the sole holder. If more than 1 joint holder tenders a vote, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.
- (d) The parent or guardian of an infant member may vote at any general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.
- (e) A person entitled to a share as a result of a transmission event may vote at any general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, before the meeting, the directors have:
- (1) admitted that person's right to vote at that meeting in respect of the share; or
 - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 6.4(c),
- and any vote so tendered by such a person must be accepted to the exclusion of the vote of the registered holder of the share.
- (f) A member is not entitled to vote at a general meeting unless all calls and other sums of money presently payable by that member in respect of shares in the company have been paid.
- (g) An objection to the qualification of a person to vote at a general meeting:
- (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) must be referred to the chairperson of the meeting, whose decision is final.
- (h) A vote not disallowed by the chairperson of a meeting under rule 7.8(g) is valid for all purposes.

7.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
- (1) in person or, where a member is a body corporate, by its representative;
 - (2) by not more than 2 proxies; or

- (3) by not more than 2 attorneys.
- (b) A proxy, attorney or representative may, but need not, be a member of the company.
- (c) A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the appointment of a proxy, attorney or representative, or in the Act, an appointment will be taken to confer authority:
 - (1) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution;
 - (2) to speak to any proposed resolution on which the proxy, attorney or representative may vote;
 - (3) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote;
 - (4) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) Where a member appoints 2 proxies or attorneys, the following rules apply:
 - (1) the appointment is of no effect and a proxy or attorney may not vote unless each proxy or attorney, as the case may be, is appointed to represent a specified proportion of the member's voting rights;
 - (2) on a show of hands, neither proxy or attorney may vote; and
 - (3) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (f) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.

- (g) Subject to rule 7.9(i), an instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointer or the appointer's attorney.
- (h) Subject to rule 7.9(i), a proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed or a certified copy of the authority, are:
 - (1) received at the registered office of the company, a fax number at the company's registered office or at such other place, fax number or electronic address specified for that purpose in the notice calling the meeting before the time for holding the meeting or adjourned meeting or taking the poll (as the case may be);
 - (2) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
 - (3) in the case of a poll, produced when the poll is taken.
- (i) The directors may waive all or any of the requirements of rules 7.9(g) and (h) and in particular may, upon the production of such other evidence as the directors require to prove the validity of the appointment of a proxy or attorney, accept:
 - (1) an oral appointment of a proxy or attorney;
 - (2) an appointment of a proxy or attorney which is not signed in the manner required by rule 7.9(g); and
 - (3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney or of the power of attorney or other authority under which the instrument is signed.
- (j) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:
 - (1) a transmission event occurring in relation to the appointer; or
 - (2) the revocation of the instrument or of the authority under which the instrument was executed,

if no notice in writing of the transmission event or revocation has been received by the company by the time and at 1 of the places at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under rule 7.9(h).
- (k) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be deposited, tabled or produced under rule 7.9(h).
- (l) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

8 Resolution of single member

When the company has only 1 member:

- (a) The directors must give the member 14 days' notice of any resolution that the directors propose that the company pass. The notice must be in writing and must set out the wording of the proposed resolution.
- (b) The member may waive notice of any proposed resolution under rule 8(a) by notice in writing to the company.
- (c) The company may pass a resolution by the member recording it and signing the record.
- (d) The member must give the company notice of any resolution passed in accordance with rule 8(c) within 14 days of the passing of any such resolution. The notice must be in writing and must set out details of the resolution passed.

9 Directors

9.1 Appointment and removal of directors

- (a) There must be:
 - (1) at least 1 director; and
 - (2) subject to rule 9.1(c), not more than 12 directors.
- (b) The first directors are the persons who are specified with their consent as proposed directors in the application for registration of the company.
- (c) The company may by resolution:
 - (1) increase or reduce the minimum or maximum number of directors; and
 - (2) appoint or remove a director.
- (d) The directors may appoint any natural person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution.
- (e) Subject to rule 9.2 and to the terms of any agreement entered into between the company and the relevant director, a director holds office until the director dies or is removed from office pursuant to rule 9.1(c)(2).

9.2 Vacation of office

The office of a director becomes vacant:

- (a) in the circumstances prescribed by the Act;
- (b) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or
- (c) if the director resigns by notice in writing to the company.

9.3 Remuneration of directors

- (a) Each director is entitled to such remuneration out of the funds of the company as the directors determine, but if the company in general meeting has fixed a limit on the amount of remuneration payable to the directors, the aggregate remuneration of the directors under this rule 9.3(a) must not exceed that limit.
- (b) The remuneration of a director:
 - (1) may be a stated salary or a fixed sum for attendance at each meeting of directors or both; or
 - (2) may be a share of a fixed sum determined by the company in general meeting to be the remuneration payable to all directors which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally,and if it is a stated salary under rule 9.3(b)(1) or a share of a fixed sum under rule 9.3(b)(2), will be taken to accrue from day to day.
- (c) For the purposes of this constitution the amount fixed by the company as remuneration for a director, will not include any amount paid by the company or related body corporate:
 - (1) to a superannuation, retirement or pension fund for a director so that the company is not liable to pay the superannuation guarantee charge or similar statutory charge; or
 - (2) for any insurance premium paid or agreed to be paid for a director under rule 10.4.
- (d) In addition to his or her remuneration under rule 9.3(a), a director is entitled to be paid all travelling and other expenses properly incurred by that director in connection with the affairs of the company, including attending and returning from general meetings of the company or meetings of the directors or of committees of the directors.
- (e) If a director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under rule 9.3(a).
- (f) Nothing in rule 9.3(a) restricts the remuneration to which a director may be entitled as an officer of the company or of a related body corporate in a capacity other than director, which may be either in addition to or in substitution for that director's remuneration under rule 9.3(a).

9.4 Director need not be a member

- (a) A director is not required to hold any shares in the company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even though that director is not a member of the company.

9.5 Interested directors

- (a) A director may hold any other office or place of profit (other than auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or place upon such terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the company may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise and is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of, or from having an interest in, that body corporate.
- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company in such manner in all respects as the directors think fit (including voting in favour of any resolution appointing a director as a director or other officer of that body corporate or voting for the payment of remuneration to the directors or other officers of that body corporate) and a director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A director is not disqualified merely because of being a director from contracting with the company in any respect including, without limitation:
 - (1) selling any property to, or purchasing any property from, the company;
 - (2) lending any money to, or borrowing any money from, the company with or without interest and with or without security;
 - (3) guaranteeing the repayment of any money borrowed by the company for a commission or profit;
 - (4) underwriting or guaranteeing the subscription for securities in the company or in any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (5) being employed by the company or acting in any professional capacity (other than auditor) on behalf of the company.
- (e) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under any such contract or arrangement merely because of

the director holding office as a director or because of the fiduciary obligations arising out of that office.

- (g) A director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
- (1) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) sign any document relating to that contract or arrangement or proposed contract or arrangement the company may execute.

9.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the company in general meeting all the powers of the company which are not required, by the Act or by this constitution, to be exercised by the company in general meeting.
- (b) Without limiting the generality of rule 9.6(a) the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (1) appoint or employ any person to be an officer, agent or attorney of the company for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for such period and upon such conditions as they think fit;
 - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

9.7 Proceedings of directors

- (a) The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and the rules relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by telephone or other electronic means.
- (c) A director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chairperson of the meeting provided that at least 1 of the directors involved was at that place for the duration of the meeting.

9.8 Convening of meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

9.9 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
 - (1) a director, other than a director on leave of absence approved by the directors; or
 - (2) an alternate director appointed under rule 9.14 by a director on leave of absence approved by the directors.
- (b) A notice of a meeting of directors:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting;
 - (4) may be given in person or by post or by telephone, fax or other electronic means; and
 - (5) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of any meeting of directors by notifying the company to that effect in person or by post or by telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:

- (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the director or an alternate director appointed by the director:
 - (A) has waived or waives notice of that meeting under rule 9.9(c); or
 - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post, or by telephone, fax or other electronic means; or
 - (3) the director or an alternate director appointed by the director attended the meeting.
- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
- (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the alternate director or the director who appointed the alternate director or another alternate director appointed by that director:
 - (A) has waived or waives notice of that meeting under rule 9.9(c); or
 - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post, or by telephone, fax or other electronic means; or
 - (3) the alternate director or the director who appointed the alternate director or another alternate director appointed by that director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection that person and:
- (1) if the person is a director, any alternate director appointed by that person; or
 - (2) if the person is an alternate director, the director who appointed that person as alternate director and any other alternate director appointed by that director,
- may have to a failure to give notice of the meeting.

9.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of:
 - (1) if the directors have fixed a number for the quorum, that number of directors; and
 - (2) in any other case 2 directors

present at the meeting of directors.

- (c) If there is a vacancy in the office of a director then, subject to rule 9.10(d), the remaining director or directors may act.
- (d) If the number of directors in office at any time is not sufficient to constitute a quorum at a meeting of directors or is less than the minimum number of directors fixed under this constitution, the remaining director or directors must act as soon as possible:
 - (1) to increase the number of directors to a number sufficient to constitute a quorum and to satisfy the minimum number of directors required under this constitution; or
 - (2) to convene a general meeting of the company for that purpose, and, until that has happened, must only act if and to the extent that there is an emergency requiring them to act.

9.11 Chairperson of directors

- (a) The directors may elect 1 of the directors to the office of chairperson of directors and may determine the period for which that director is to be chairperson of directors.
- (b) The office of chairperson of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the director holding that office for the purposes of rule 8.3(d).
- (c) The chairperson of directors must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting of directors.
- (d) If at a meeting of directors:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,
 the directors present must elect 1 of themselves to be chairperson of the meeting.

9.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution. However, if the company has only 1 director, the director may pass a resolution and make a declaration by recording it and signing the record.
- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and any such decision is for all purposes a determination of the directors.
- (c) In the case of an equality of votes upon any proposed resolution:
 - (1) the chairperson of the meeting will not have a second or casting vote; and

- (2) the proposed resolution is to be taken as having been lost.

9.13 Written resolutions

(a) If:

(1) all of the directors, other than:

- (A) any director on leave of absence approved by the directors;
- (B) any director who disqualifies himself or herself from considering the act, matter, thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
- (C) any director who the directors reasonably believe is not entitled at law to do the act, matter or thing or to vote on the resolution in question,

assent to a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and

(2) the directors who assent to the document would have constituted a quorum at a meeting of directors held to consider that act, matter, thing or resolution,

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the directors.

(b) For the purposes of rule 9.13(a):

(1) the meeting is to be taken as having been held:

- (A) if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to by a director; or
- (B) if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by a director;

(2) 2 or more separate documents in identical terms, each of which is assented to by 1 or more directors, are to be taken as constituting 1 document; and

(3) a director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post, telephone, fax or other electronic means.

(c) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

9.14 Alternate directors

(a) A director may appoint, with approval of a majority of the other directors:

- (1) a person to be the director's alternate director for such period as the director thinks fit; and
 - (2) another person to be the director's alternate director in the absence of any alternate director appointed under rule 9.14(a)(1).
- (b) An alternate director may, but need not, be a member or a director of the company.
 - (c) One person may act as alternate director to more than 1 director.
 - (d) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.
 - (e) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
 - (f) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate director is to be taken to be the exercise of the power by the appointer.
 - (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
 - (h) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
 - (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the company has received notice in writing of the appointment or termination.
 - (j) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
 - (k) In determining whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.
 - (l) An alternate director is entitled to be paid such remuneration as the directors think fit, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.
 - (m) An alternate director is not entitled to be remunerated by the company for his or her services as an alternate director except as provided in rule 9.14(l).
 - (n) An alternate director, while acting as a director, is responsible to the company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

9.15 Committees of directors

- (a) The directors may delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The rules applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.

Membership of a committee of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the members for the purposes of rule 9.3(e).

9.16 Delegation to individual directors

- (a) The directors may delegate any of their powers to 1 director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) Acceptance of such a delegation may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of rule 9.3(e).

9.17 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee (as the case may be) when the act was done.

10 Executive officers

10.1 Managing directors

- (a) The directors may appoint 1 or more of the directors to the office of managing director.
- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.

10.2 Secretaries

- (a) The directors may appoint 1 or more secretaries.
- (b) The directors may appoint 1 or more assistant secretaries.

10.3 Provisions applicable to all executive officers

- (a) A reference in this rule 10.3 to an executive officer is a reference to a managing director, secretary or assistant secretary appointed under this rule 10.
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the directors think fit.
- (c) Subject to any contract between the company and the relevant executive officer, any executive officer of the company may be removed or dismissed by the directors at any time, with or without cause.
- (d) The directors may:
 - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors) as they think fit;
 - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to hold any shares to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (1) a defect in the person's appointment as an executive officer; or
 - (2) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

11 Indemnity and insurance

11.1 Persons to whom rules 11.2 and 11.3 apply

Rules 11.2 and 11.3 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 10.3(a)) of the company;
 - (b) to such other officers or former officers of the company or of its related bodies corporate as the directors in each case determine; and
 - (c) if the directors so determine, to any auditor or former auditor of the company or of its related bodies corporate,
- (each an Officer for the purposes of this rule).

11.2 Indemnity

Subject to rule 11.3, the company must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs, charges and expenses (Liabilities) incurred by the Officer as an officer of the company, including without limitation:

- (a) a liability for negligence; and
- (b) a liability for reasonable legal costs.

11.3 Limit on indemnity

- (a) The indemnity in rule 11.2 does not operate in relation to any Liability which:
 - (1) is a Liability to the company or any of its related bodies corporate;
 - (2) is a Liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
 - (3) arises out of conduct of the Officer which was not in good faith, or which involves wilful misconduct, gross negligence, reckless misbehaviour or fraud,

provided that this rule 11.3(a) does not apply to a liability for legal costs.
- (b) The indemnity in rule 11.2 does not operate in relation to legal costs incurred by the Officer in defending an action for a Liability if the costs are incurred:
 - (1) in defending or resisting proceedings in which the Officer is found to have a Liability referred to in rule 11.3(a);
 - (2) in defending or resisting criminal proceedings in which the Officer is found guilty;
 - (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this does not include costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or
 - (4) in connection with proceedings for relief to the Officer under the Act in which the court denies the relief.
- (c) If there is any appeal in relation to any proceedings referred to in rule 11.3(b), it is the outcome of the final appeal that is relevant for the purposes of rule 11.3(b).
- (d) The indemnity in rule 11.2:
 - (1) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
 - (2) does not operate in respect of any Liability of the Officer to the extent that Liability is covered by insurance.

11.4 Extent of indemnity

The indemnity in rule 11.2:

- (a) is enforceable without the Officer having to first incur any expense or make any payment;

- (b) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the relevant Group Company; and
- (c) applies to Liabilities incurred both before and after the date of this deed.

11.5 Insurance

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Officer against any Liability incurred by the Officer as an officer or auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

11.6 Savings

Nothing in rule 11.2 or 11.3:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

12 Winding up

12.1 Distribution of surplus

Subject to this constitution and to the rights or restrictions attached to any shares or class of shares:

- (a) if the company is wound up and the property of the company is more than sufficient:
 - (1) to pay all of the debts and liabilities of the company; and
 - (2) the costs, charges and expenses of the winding up,the excess must be divided among the members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 12.1(a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 12.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and
- (d) if the effect of the reduction under rule 12.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

12.2 Division of property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
 - (1) divide among the members the whole or any part of the property of the company; and
 - (2) determine how the division is to be carried out as between the members or different classes of members.
- (b) Any division under rule 12.2(a) may be otherwise than in accordance with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 12.2(a) is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Act.
- (d) If any of the property to be divided under rule 12.2(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may within 10 days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 12.2 derogates from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 5.3 applies, so far as it can and with such changes as are necessary, to a division by a liquidator under rule 12.2(a) as if references in rule 5.3 to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 12.2(a) respectively.

13 Minutes and records

13.1 Minutes of meetings

The directors must ensure minutes of proceedings and resolutions of general meetings, and of meetings of directors (including committees of directors) are recorded, in books kept for the purpose, within 1 month after the relevant meeting is held.

13.2 Minutes of resolutions passed without a meeting

The directors must ensure minutes of resolutions passed by members and resolutions passed and declarations made by directors (and committees of directors) without a meeting are recorded in books kept for the purpose within 1 month after the resolution is passed or the declaration is made.

13.3 Signing of minutes

- (a) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

- (b) The minutes of the passing of a resolution or the making of a declaration without a meeting must be signed by a director within a reasonable time after the resolution is passed or the declaration is made.

13.4 Minutes as evidence

A minute that is recorded and signed under rules 13.1 and 13.2 is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

13.5 Inspection of records

- (a) The directors must ensure the minute books for general meetings are open for inspection by members free of charge.
- (b) Subject to rule 13.5(a), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of members (other than directors).
- (c) A member (other than a director) does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.

14 Execution of documents

14.1 Manner of execution

The company may execute a document if the document is signed by:

- (a) 2 directors;
- (b) a director and a secretary; or
- (c) a director who is the only director and that director states next to the signature that that director signs in the capacity of sole director of the company.

14.2 Common seal

The company may have a common seal. If the company has a common seal, rules 14.3 to 14.8 will apply.

14.3 Safe custody of seal

The directors must provide for the safe custody of the seal.

14.4 Use of seal

- (a) The seal must be used only by the authority of the directors or of a committee of the directors authorised by the directors to authorise the use of the seal.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Subject to rule 14.8, until the directors otherwise determine, every document to which the seal is fixed must be signed by

- (1) 2 directors;
- (2) a director and a secretary;
- (3) a director and another person appointed by the directors to countersign that document or a class of documents in which that document is included; or
- (4) a director who is the only director and that director states next to the signature that that director witnesses the sealing in the capacity of sole director of the company.

14.5 Seal register

- (a) The company may keep a seal register. If the company does keep a seal register the company must enter in the register particulars of any document on which the seal is fixed (other than a certificate for securities of the company), giving in each case:
 - (1) the date of the document;
 - (2) the names of the parties to the document;
 - (3) a short description of the document; and
 - (4) the names of the persons signing the document under rule 14.4(c).
- (b) The register must be produced at meetings of directors for confirmation of the use of the seal since confirmation was last given under this rule 14.5.
- (c) Failure to comply with rule 14.5(a) or (b) does not invalidate any document to which the seal is properly affixed.

14.6 Duplicate seal

- (a) The company may have for use in place of its common seal outside the state or territory where its common seal is kept 1 or more duplicate seals, each of which must be a facsimile of the common seal of the company with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (b) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the company.

14.7 Share seal or certificate seal

- (a) The company may have for use on certificates for securities of the company in place of its common seal 1 or more share seals or certificate seals, each of which must be a facsimile of the common seal of the company with the addition on its face of the words "share seal" or "certificate seal".
- (b) A certificate for securities of the company sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the company.

14.8 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director, secretary or other person is to be printed on or affixed to any certificates for securities in the company by some mechanical or other means.

15 Notices

15.1 Notices by the company to members

- (a) A notice may be given by the company to a member by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or such other address, or by sending it to the fax number or electronic address the member has supplied to the company for the giving of notices.
- (b) A notice to the joint holders of a share:
 - (1) which relates to a resolution under 7.7, must be given by the company to each joint holder;
 - (2) for all other purposes, may be given by the company to the joint holder first named in the register of members in respect of the share,in the manner authorised by rule 15.1(a).
- (c) A notice may be given by the company to a person entitled to a share as a result of a transmission event by serving it or sending it in the manner authorised by rule 15.1(a) addressed to the name or title of the person, at or to such address, fax number or electronic address supplied to the company for the giving of notices to that person, or if no address, fax number or electronic address has been supplied, at or to the address, fax number or electronic address to which the notice might have been sent if the relevant transmission event had not occurred.
- (d) The fact that a person has supplied a fax number or an electronic address for the giving of notices does not require the company to give any notice to that person by fax or electronic means.
- (e) A notice given to a member in accordance with rules 15.1(a) or (b) is, despite the occurrence of a transmission event and whether or not the company has notice of that occurrence:
 - (1) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (2) sufficient service on any person entitled to the shares as a result of the transmission event.
- (f) A notice given to a person who is entitled to a share as a result of a transmission event is sufficient service on the member in whose name the share is registered.
- (g) Any person who, because of a transfer of shares, becomes entitled to any shares registered in the name of a member is bound by every notice which,

before that person's name and address is entered in the register of members in respect of those shares, is given to the member in accordance with this rule 15.1.

- (h) A signature to any notice given by the company to a member under this rule 15.1 may be in writing or a facsimile printed or affixed by some mechanical or other means.
- (i) A certificate signed by a director or secretary of the company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

15.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address, or by sending it to the fax number or electronic address as the director or alternate director has supplied to the company for the giving of notices.

15.3 Notices by members or directors to the company

Subject to this constitution, a notice may be given by a member, director or alternate director to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by sending it to the principal fax number or principal electronic address of the company at its registered office.

15.4 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth must be sent by airmail.

15.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (1) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax or electronic means, service of the notice is to be taken to be effected on the day after the date it is sent.

15.6 Other communications and documents

Rules 15.1 to 15.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

15.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by fax or electronic means.

16 General

16.1 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the company is taken to be registered under the Act, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

16.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

DATED: 23 October 2001

CONSTITUTION

TRANSURBAN INFRASTRUCTURE MANAGEMENT LIMITED

ACN 098 147 678

A company limited by shares

I certify that this is a true and complete copy of the original
and that this page and the preceding 47 pages are the
complete document



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Certificate of Registration of a Company

This is to certify that

**TRANSURBAN INFRASTRUCTURE MANAGEMENT
LIMITED**

Australian Company Number 098 147 678

is a registered company under the Corporations Act 2001 and
is taken to be registered in Victoria

The company is limited by shares.

The company is a public company

The day of commencement of registration is
the thirteenth day of September 2001.

Issued by the
Australian Securities and Investments Commission
on this thirteenth day of September, 2001.



David Knott
Chairman



CERTIFICATE

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TRANSURBAN INFRASTRUCTURE MANAGEMENT LIMITED

A company limited by shares

Constitution

1 Preliminary

1.1 Definitions and Interpretation

- (a) In this constitution:

Act means Corporations Act 2001;

Commonwealth means the Commonwealth of Australia and its external territories;

representative, in relation to a body corporate, means a representative of the body corporate appointed under section 250D of the Act or a corresponding previous law;

seal means any common seal, duplicate seal, share seal or certificate seal of the company; and

transmission event means:

- (1) in respect of a member who is an individual:
 - (A) the death of the member;
 - (B) the bankruptcy of the member; or
 - (C) the member becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; and
 - (2) in respect of a member who is a body corporate, the dissolution of the member or the succession by another body corporate to the assets and liabilities of the member.
- (b) A reference in a rule to a partly paid share is a reference to a share on which there is an amount unpaid.
- (c) A reference in a rule relating to partly paid shares to a call or an amount called in respect of a share includes a reference to a sum that, by the terms of issue of a share, becomes payable on issue or at a fixed date.
- (d) A member is to be taken to be present at a general meeting if the member is present in person or by proxy, attorney or representative.
- (e) A director is to be taken to be present at a meeting of directors if the director is present in person or by alternate director.
- (f) Where a rule establishes an office of chairperson, the chairperson may be referred to as chair or as chairman or chairwoman, as the case requires.

- (g) Where a rule establishes an office of deputy chairperson, the deputy chairperson may be referred to as deputy chair or as deputy chairman or deputy chairwoman, as the case requires.
- (h) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (i) Unless the contrary intention appears in this constitution,
 - (1) words importing the singular include the plural and words importing the plural include the singular;
 - (2) words importing a gender include every other gender;
 - (3) words used to denote persons generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another government agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (6) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (j) In this constitution headings and boldings are for convenience only and do not affect its interpretation.

1.2 Application of the Act

- (a) This constitution is to be interpreted subject to the Act. However, the rules that apply as replaceable rules to companies under the Act do not apply to the company.
- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision of the Act.
- (c) Subject to rule 1.2(b), unless the contrary intention appears, an expression in a rule that is defined for the purposes of the Act has the same meaning as in the Act.

1.3 Exercise of powers

- (a) The company may, in any manner permitted by the Act:
 - (1) exercise any power;

- (2) take any action; or
- (3) engage in any conduct or procedure,

which under the Act a company limited by shares may exercise, take or engage in if authorised by its constitution.

- (b) Where this constitution provides that a person or body may do a particular act or thing and the word "may" is used, the act or thing may be done at the discretion of the person or body.
- (c) Where this constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (d) Where this constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (e) Where this constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between the company and the relevant person, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (f) Where this constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (g) Where this constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (h) Where this constitution confers power on a person or body to delegate a function or power:
 - (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;

- (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
- (4) the delegation may include the power to delegate;
- (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and
- (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

1.4 Currency

An amount payable to the holder of a share, whether by way of or on account of dividend, return of capital, participation in the property of the company on a winding up or otherwise, may be paid, with the agreement of the holder or pursuant to the terms of issue of the share, in the currency of a country other than Australia and the directors may fix a date up to 30 days before the payment date as the date on which any applicable exchange rate will be determined for that purpose.

2 Share capital

2.1 Shares

- (a) Without prejudice to any special rights conferred on the holders of any shares or class of shares, the directors may issue or grant options in respect of, or otherwise dispose of, shares to such persons, for such price, on such conditions, at such times and with such preferred, deferred or other special rights or special restrictions, whether with regard to dividend, voting, return of capital, participation in the property of the company on a winding up or otherwise, as the directors think fit.
- (b) In particular, the directors may differentiate between the holders of partly paid shares as to the amount of calls to be paid and the time for payment.

2.2 Preference shares

- (a) The company may issue preference shares including preference shares which are, or at the option of the company are, liable to be redeemed.
- (b) The certificate issued by the company for each preference share must specify or provide for the determination of:
 - (1) the rate of dividend applicable to the share and the times at which dividends are to be paid;
 - (2) the amount paid or payable on the issue of the share and, if that amount is not payable on issue, the amount unpaid on the share;

- (3) the number of votes that may be exercised by the holder in respect of the share on a poll;
 - (4) in the case of a redeemable preference share, the time and place for redemption of the share; and
 - (5) any restrictions on the right to transfer the share.
- (c) The dividend payable in respect of a preference share:
- (1) may be at a fixed or variable rate;
 - (2) unless otherwise stated in the certificate for the share, will be taken to accrue from day to day; and
 - (3) unless otherwise stated in the certificate for the share, is payable in respect of the amount for the time being paid on the preference share.
- (d) Each preference share confers on its holder:
- (1) the right to payment out of the profits of the company of a cumulative preferential dividend at the rate and at the times specified in, or determined in accordance with, the certificate for the share in priority to the payment of any dividend on any other class of shares; and
 - (2) the right in a winding up or reduction of capital and, in the case of a redeemable preference share, on redemption to payment in cash in priority to any other class of shares of:
 - (A) the amount of any dividend accrued but unpaid on the share at the date of winding up or reduction of capital or, in the case of a redeemable preference share, the date of redemption; and
 - (B) any amount paid on the share.
- (e) A preference share does not confer on its holder any right to participate in the profits or property of the company, whether on a winding up, reduction of capital or otherwise, except as set out in rule 2.2(d).
- (f) The holder of a preference share has the same right as the holder of an ordinary share to receive notice of and to attend a general meeting and to receive a copy of any documents to be laid before that meeting.
- (g) A preference share does not entitle its holder to vote at any general meeting of the company except in the following circumstances:
- (1) on a proposal:
 - (A) to reduce the share capital of the company;
 - (B) that affects rights attached to the share;
 - (C) to wind up the company; or
 - (D) for the disposal of the whole of the property, business and undertaking of the company;

- (2) during a period during which a dividend or part of a dividend on the share is in arrears; or
- (3) during the winding up of the company.
- (h) The holder of a preference share who is entitled to vote in respect of that share under rule 2.2(g) is, on a poll, entitled to the number of votes specified in, or determined in accordance with, the certificate for the share.
- (i) In the case of a redeemable preference share, the company must, at the time and place for redemption specified in, or determined in accordance with, the certificate for the share, redeem the share and, on receiving the certificate for the share, pay to or at the direction of the holder the amount payable on redemption of the share.
- (j) A holder of a preference share must not transfer or purport to transfer, and the directors must not register a transfer of, the share if the transfer would contravene any restrictions on the right to transfer the share set out in the certificate for the share.

2.3 Power to pay brokerage, commission and interest on share capital

- (a) The company may make payments by way of brokerage or commission in the manner provided by the Act.
- (b) Payments by way of brokerage or commission may be satisfied by the payment of cash, by the issue of fully paid shares, by the issue of partly paid shares or by any combination of the above.
- (c) The company may pay interest on its share capital in the manner provided by the Act.

2.4 Joint holders of shares

Where 2 or more persons are registered as the holders of a share they hold it as joint tenants with rights of survivorship subject to the following provisions:

- (a) they and their respective legal personal representatives are liable severally as well as jointly for all payments, including calls, which ought to be made in respect of the share;
- (b) subject to rule 2.4(a), on the death of any 1 of them the survivor or survivors are the only person or persons the company will recognise as having any title to the share;
- (c) any 1 of them may give effectual receipts for any dividend, interest or other distribution or payment in respect of the share;
- (d) except in the case of persons jointly entitled to be registered as the joint holders of a share under rule 5.4(c) the company is not bound to register more than 3 persons as joint holders of the share;
- (e) the company is not bound to issue more than 1 certificate in respect of the share; and
- (f) delivery of a certificate for the share to any 1 of them is sufficient delivery to all of them.

2.5 Equitable and other claims

- (a) Except as otherwise required by law or provided by this constitution, the company is entitled to treat the registered holder of a share as the absolute owner of that share and is not:
 - (1) compelled in any way to recognise a person as holding a share upon any trust, even if the company has notice of that trust; or
 - (2) compelled in any way to recognise, or bound by, any equitable, contingent, future or partial claim to or interest in a share on the part of any other person except an absolute right of ownership in the registered holder, even if the company has notice of that claim or interest.
- (b) With the consent of the directors, shares held by a trustee may be marked in the register in such a way as to identify them as being held subject to the relevant trust.
- (c) Nothing in rule 2.5(b) limits the operation of rule 2.5(a).

3 Calls, forfeiture, indemnities, lien and surrender

3.1 Calls

- (a) Subject to this constitution and to the terms upon which any shares may be issued, the directors may make calls upon the members in respect of any money unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times.
- (b) A call may be required by the directors to be paid by instalments.
- (c) Upon receiving at least 14 days' notice specifying the time and place of payment, each member must pay to the company by the time and at the place so specified the amount called on the member's shares.
- (d) A call is to be taken as having been made when the resolution of the directors authorising the call was passed.
- (e) The directors may revoke or postpone a call or extend the time for payment.
- (f) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any member does not invalidate the call.
- (g) If a sum called in respect of a share is not paid in full by the day appointed for payment of the sum, the person from whom the sum is due must pay:
 - (1) interest on so much of the sum as is unpaid from time to time, from the date appointed for payment of the sum to the date of actual payment, at a rate determined under rule 3.9; and
 - (2) any costs, expenses or damages incurred by the company in relation to the non-payment or late payment of the sum.
- (h) Any sum unpaid on a share that, by the terms of issue of the share, becomes payable on issue or at a fixed date:

- (1) is to be treated for the purposes of this constitution as if that sum was payable pursuant to a call duly made and notified; and
 - (2) must be paid on the date on which it is payable under the terms of issue of the share.
- (i) The directors may, to the extent permitted by law, waive or compromise all or any part of any payment due to the company under the terms of issue of a share or under this rule 3.1.

3.2 Proceedings for recovery of calls

- (a) In an action or other proceedings for the recovery of a call, or interest or costs or expenses incurred in relation to the non-payment or late payment of a call, proof that:
- (1) the name of the defendant is entered in the register as the holder or 1 of the holders of the share in respect of which the call is claimed;
 - (2) the resolution making the call is recorded in the minute book; and
 - (3) notice of the call was given to the defendant in accordance with this constitution,

is conclusive evidence of the debt and it is not necessary to prove the appointment of the directors who made the call or any other matter.

- (b) In rule 3.2(a), "defendant" includes a person against whom a set-off or counter-claim is alleged by the company and "action or other proceedings for the recovery of a call" is to be construed accordingly.

3.3 Payments in advance of calls

- (a) The directors may accept from a member the whole or a part of the amount unpaid on a share although no part of that amount has been called.
- (b) The directors may authorise payment by the company of interest upon the whole or any part of an amount accepted under rule 3.3(a), until the amount becomes payable, at a rate agreed between the directors and the member paying the amount.
- (c) The directors may repay to a member all or any of the amount accepted under rule 3.3(a).

3.4 Forfeiture of partly paid shares

- (a) If a member fails to pay the whole of a call or instalment of a call by the time appointed for payment of the call or instalment, the directors may serve a notice on that member:
- (1) requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs, expenses or damages that may have been incurred by the company by reason of the non-payment or late payment of the call or instalment;
 - (2) naming a further day (at least 14 days after the date of service of the notice) by which, and a place at which, the amount payable under rule 3.4(a)(1) is to be paid; and

- (3) stating that, in the event of non-payment of the whole of the amount payable under rule 3.4(a)(1) by the time and at the place named, the shares in respect of which the call was made will be liable to be forfeited.
- (b) If the requirements of a notice served under rule 3.4(a) are not complied with, the directors may by resolution forfeit any share in respect of which the notice was given at any time after the day named in the notice and before the payment required by the notice is made.
- (c) A forfeiture under rule 3.4(b) will include all dividends, interest and other money payable by the company in respect of the forfeited share and not actually paid before the forfeiture.
- (d) Where a share has been forfeited:
- (1) notice of the resolution must be given to the member in whose name the share stood immediately before the forfeiture; and
 - (2) an entry of the forfeiture, with the date, must be made in the register of members.
- (e) Failure to give the notice or to make the entry required under rule 3.4(d) does not invalidate the forfeiture.
- (f) A forfeited share becomes the property of the company and the directors may sell, reissue or otherwise dispose of the share in such manner as they think fit and, in the case of reissue or other disposal, with or without any money paid on the share by any former holder being credited as paid up.
- (g) A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares, but remains liable to pay, and must immediately pay, to the company:
- (1) all calls, instalments, interest, costs, expenses and damages owing in respect of the shares at the time of the forfeiture; and
 - (2) interest on so much of the amount payable under rule 3.4(g)(1) as is unpaid from time to time, from the date of the forfeiture to the date of actual payment, at a rate determined under rule 3.9.
- (h) Except as otherwise provided by this constitution, the forfeiture of a share extinguishes all interest in, and all claims and demands against the company in respect of, the forfeited share and all other rights incident to the share.
- (i) The directors may:
- (1) exempt a share from all or any part of this rule 3.4;
 - (2) waive or compromise all or any part of any payment due to the company under this rule 3.4; and
 - (3) before a forfeited share has been sold, reissued or otherwise disposed of, annul the forfeiture upon such conditions as they think fit.

3.5 Indemnity for payments by the company

If the company becomes liable under any law to make any payment:

- (a) in respect of shares held solely or jointly by a member;
- (b) in respect of a transfer or transmission of shares by a member;
- (c) in respect of dividends, bonuses or other money due or payable or which may become due and payable to a member; or
- (d) otherwise for or on account of or in respect of a member,

whether as a consequence of:

- (e) the death of that member;
- (f) the non-payment of any income tax, capital gains tax, wealth tax or other tax by that member or the legal personal representative of that member;
- (g) the non-payment of any estate, probate, succession, death, stamp or other duty by that member or the legal personal representative of that member; or
- (h) any other act or thing.

then, in addition to any right or remedy that law may confer on the company:

- (i) the member or, if the member is dead, the member's legal personal representative must:
 - (1) fully indemnify the company against that liability;
 - (2) reimburse the company for any payment made under or as a consequence of that law immediately on demand by the company; and
 - (3) pay interest on so much of the amount payable to the company under rule 3.5(i)(2) as is unpaid from time to time, from the date the company makes a payment under that law until the date the company is reimbursed in full for that payment under rule 3.5(i)(2), at a rate determined under rule 3.9;
- (j) the company has a lien upon all dividends, interest and other money payable in respect of the shares held solely or jointly by that member or that member's legal personal representative for all money payable to the company under this rule 3.5;
- (k) the company may refuse to register a transfer of any shares by or to that member or that member's legal personal representative until all money payable to the company under this rule 3.5 has been paid; and
- (l) the directors may:
 - (1) exempt a share from all or any part of this rule 3.5; and
 - (2) waive or compromise all or any part of any payment due to the company under this rule 3.5.

3.6 Lien on shares

- (a) The company has a first and paramount lien on:

- (1) each partly paid share for all money (whether presently payable or not) called or otherwise due under this constitution in respect of that share; and
 - (2) all shares registered in the name of a sole holder for all money presently payable by the holder or the holder's estate to the company, including any money payable under rule 3.5.
- (b) The company's lien on a share extends to all dividends payable in respect of the share and to the proceeds of sale of the share.
- (c) The directors may sell any share on which the company has a lien in such manner as they think fit where:
 - (1) an amount in respect of which a lien exists under this rule 3.6 is presently payable; and
 - (2) the company has, not less than 14 days before the date of the sale, given to the registered holder of the share a notice in writing setting out, and demanding payment of, such amount in respect of which the lien exists as is presently payable.
- (d) Registration by the company of a transfer of shares on which the company has a lien without giving to the transferee notice of its claim releases the company's lien in so far as it relates to sums owing by the transferor or any predecessor in title.
- (e) The directors may:
 - (1) exempt a share from all or any part of this rule 3.6; and
 - (2) waive or compromise all or any part of any payment due to the company under this rule 3.6.

3.7 Surrender of shares

- (a) The directors may accept a surrender of a share by way of compromise of any claim as to whether or not that share has been validly issued or in any other case where the surrender is within the powers of the company.
- (b) Any share so surrendered may be sold, reissued or otherwise disposed in the same manner as a forfeited share.

3.8 General provisions applicable to a disposal of shares under this constitution

- (a) A reference in this rule 3.8 to a disposal of shares under this constitution is a reference to:
 - (1) any sale, reissue or other disposal of a forfeited share under rule 3.4(f) or a surrendered share under rule 3.7; and
 - (2) any sale of a share on which the company has a lien under rule 3.6(c).
- (b) Where any shares are disposed of under this constitution, the directors may:

- (1) receive the purchase money or consideration given for the shares on the disposal;
 - (2) effect a transfer of the shares and execute, or appoint a person to execute, on behalf of the former holder an instrument of transfer of the shares or any other instrument for the purpose of giving effect to the disposal; and
 - (3) register as the holder of the shares the person to whom the shares have been disposed of.
- (c) A person to whom shares are disposed of under this constitution is not bound to see to the regularity or validity of, or to the application of the purchase money or consideration on, the disposal and the title of that person to the shares is not affected by any irregularity or invalidity in the forfeiture or surrender of the shares or the exercise of the company's lien on the shares (as the case may be).
- (d) The remedy of any person aggrieved by a disposal of shares under this constitution is limited to damages only and is against the company exclusively.
- (e) The proceeds of a disposal of shares under this constitution must be applied in the payment of:
- (1) first, the expenses of the disposal;
 - (2) second, all money presently payable by the former holder whose shares have been disposed of;
- and the balance (if any) must be paid (subject to any lien that exists under rule 3.6 in respect of money not presently payable) to the former holder:
- (3) in the case of an uncertificated holding, as soon as practicable after the disposal; and
 - (4) in the case of a certificated holding, on the former holder delivering to the company the certificate for the shares that have been disposed of or such other proof of title as the directors may accept.
- (f) A statement in writing signed by a director or secretary of the company to the effect that a share in the company has been:
- (1) duly forfeited under rule 3.4(b);
 - (2) duly sold, reissued or otherwise disposed of under rule 3.4(f) or rule 3.7; or
 - (3) duly sold under rule 3.6(c),
- on a date stated in the statement is conclusive evidence of the facts stated in the statement as against all persons claiming to be entitled to the share and of the right of the company to forfeit, sell, reissue or otherwise dispose of the share.

3.9 Interest payable by member

- (a) For the purposes of rules 3.1(g)(1), 3.4(g)(2) and 3.5(i)(3), the rate of interest payable to the company is:

- (1) if the directors have fixed a rate, the rate so fixed; or
 - (2) in any other case, 8% per annum.
- (b) Interest payable under rules 3.1(g)(1), 3.4(g)(2) and 3.5(i)(3) accrues daily and may be capitalised monthly or at such other intervals as the directors think fit.

4 Distribution of profits

4.1 Dividends

- (a) The directors may pay any interim and final dividends as, in their judgment, the financial position of the company justifies.
- (b) The directors may pay any dividend required to be paid under the terms of issue of a share.
- (c) The payment of a dividend does not require any confirmation by a general meeting.
- (d) Subject to any rights or restrictions attached to any shares or class of shares:
 - (1) all dividends in respect of shares must be paid in proportion to the number of shares held by a member but where shares are partly paid all dividends must be apportioned and paid proportionately to the amounts paid or credited as paid on the partly paid shares;
 - (2) all dividends must be apportioned and paid proportionately to the amounts so paid or credited during any portion or portions of the period in respect of which the dividend is paid;
 - (3) for the purposes of rules 4.1(d)(1) and (2), an amount paid or credited as paid on a share in advance of a call is to be ignored; and
 - (4) interest is not payable by the company in respect of any dividend.
- (e) The directors may fix a record date in respect of a dividend, with or without suspending the registration of transfers from that date under rule 5.3.
- (f) A dividend in respect of a share must be paid to the person who is registered, or entitled under rule 5.1(c) to be registered, as the holder of the share:
 - (1) where the directors have fixed a record date in respect of the dividend, on that date; or
 - (2) where the directors have not fixed a record date in respect of that dividend, on the date fixed for payment of the dividend,

and a transfer of a share that is not registered, or left with the company for registration in accordance with rule 5.1(b), on or before that date is not effective, as against the company, to pass any right to the dividend.
- (g) The directors when determining a dividend is payable may:

- (1) direct payment of the dividend wholly or partly by the distribution of specific assets, including paid-up shares or other securities of the company or of another body corporate, either generally or to specific shareholders; and
- (2) direct that the dividend be paid to particular shareholders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source and to the remaining shareholders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source or generally.
- (h) The directors may deduct from any dividend payable to a member all sums of money presently payable by the member to the company and apply the amount deducted in or towards satisfaction of the money owing.
- (i) Where a person is entitled to a share as a result of a transmission event, the directors may, but are not obliged to, retain any dividends payable in respect of that share until that person becomes registered as the holder of the share or transfers it.
- (j) Without prejudice to any other method of payment the directors may adopt, any dividend, interest or other money payable in cash in respect of shares may be paid by cheque and sent by post:
 - (1) to the address of the holder as shown in the register of members, or in the case of joint holders, to the address shown in the register of members as the address of the joint holder first named in that register; or
 - (2) to such other address as the holder or joint holders in writing directs or direct.
- (k) A cheque sent under rule 4.1(j) may be made payable to bearer or to the order of the member to whom it is sent or such other person as the member may direct and is sent at the member's risk.

4.2 Capitalisation of profits

- (a) Subject to any rights or restrictions attached to any shares or class of shares, the directors may capitalise and distribute among such of the members as would be entitled to receive dividends and in the same proportions, any amount:
 - (1) forming part of the undivided profits of the company;
 - (2) representing profits arising from an ascertained accretion to capital or from a revaluation of the assets of the company;
 - (3) arising from the realisation of any assets of the company; or
 - (4) otherwise available for distribution as a dividend.
- (b) The directors may resolve that all or any part of the capitalised amount is to be applied:
 - (1) in paying up in full shares in or other securities of the company to be issued to members;

- (2) in paying up any amounts unpaid on shares in or other securities of the company held by the members; or
- (3) partly as specified in rule 4.2(b)(1) and partly as specified in rule 4.2(b)(2),

and such an application must be accepted by the members entitled to share in the distribution in full satisfaction of their interests in the capitalised amount.

- (c) Rules 4.1(e) and (f) apply, so far as they can and with such changes as are necessary, to a capitalisation of an amount under this rule 4.2 as if references in those rules to a dividend and to the date a dividend is declared were references to a capitalisation of an amount and to the date the directors resolve to capitalise the amount under this rule 4.2.

4.3 Ancillary powers

- (a) For the purpose of giving effect to any resolution for the satisfaction of a dividend in the manner set out in rule 4.1(g)(1) or by the capitalisation of any amount under rule 4.2, the directors may:
 - (1) settle as they think expedient any difficulty that may arise in making the distribution or capitalisation;
 - (2) fix the value for distribution of any specific assets;
 - (3) pay cash or issue shares or other securities to any members in order to adjust the rights of all parties;
 - (4) vest any such specific assets, cash, shares or other securities in any trustee upon such trusts for the persons entitled to the dividend or capitalised amount as may seem expedient to the directors; and
 - (5) authorise any person to make, on behalf of all the members entitled to any further shares or other securities as a result of the distribution or capitalisation, an agreement with the company or another body corporate providing, as appropriate:
 - (A) for the issue to them of such further shares or other securities credited as fully paid up; or
 - (B) for the payment by the company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares or other securities by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement made under an authority referred to in this rule 4.3(a)(5) is effective and binding on all members concerned.

- (b) If the company distributes to members (either generally or to specific members) securities in the company or in another body corporate or trust (whether as a dividend or otherwise and whether or not for value), each of those members appoints the company as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.

4.4 Reserves

- (a) Subject to this constitution, the directors may set aside out of the profits of the company such reserves or provisions for such purposes as they think fit.
- (b) The directors may appropriate to the profits of the company any amount previously set aside as a reserve or provision.
- (c) The setting aside of any amount as a reserve or provision does not require the directors to keep the amount separate from the other assets of the company or prevent the amount being used in the business of the company or being invested in such investments as the directors think fit.

4.5 Carry forward of profits

The directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends or capitalised without transferring those profits to a reserve or provision.

4.6 Dividend reinvestment plans

The directors may:

- (a) implement a dividend reinvestment plan on such terms as they think fit under which the whole or any part of any dividend due to members who participate in the plan on their shares or any class of shares may be applied in subscribing for securities of the company or of a related body corporate; and
- (b) amend, suspend or terminate any dividend reinvestment plan implemented by them.

4.7 Dividend selection plans

The directors may:

- (a) implement a dividend selection plan on such terms as they think fit under which participants may elect:
 - (1) to receive a dividend from the company paid wholly or partly out of any particular fund or reserve or out of profits derived from any particular source; or
 - (2) to forego a dividend from the company in place of some other form of distribution from the company or another body corporate or a trust; and
- (b) amend, suspend or terminate any dividend selection plan implemented by them.

5 Transfer and transmission of shares

5.1 Transfer of shares

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, a member may transfer all or any of the member's shares by an instrument in writing in any usual form or in any other form that the directors approve.
- (b) An instrument of transfer referred to in rule 5.1(a) must:
 - (1) be signed by or on behalf of both the transferor and the transferee unless:
 - (A) the instrument of transfer relates only to fully paid shares and signature by the transferee has been dispensed with by the directors; or
 - (B) the transfer of the shares is effected by a document which is, or documents which together are, a proper transfer of those shares under the Act;
 - (2) if required by law to be stamped, be duly stamped;
 - (3) in the case of a transfer of partly paid shares, be endorsed by, or accompanied by an instrument executed by, the transferee to the effect that the transferee agrees to accept the shares subject to the terms and conditions on which the transferor held them and to become a member and to be bound by the company's constitution; and
 - (4) be left for registration at the registered office of the company, or at such other place as the directors determine, accompanied by the certificate for the shares to which it relates (if any) and such other evidence as the directors may require to prove the title of the transferor or the transferor's right to the shares and to prove the right of the transferee to be registered as the owner of the shares.
- (c) Subject to the powers vested in the directors under rules 5.2 and 5.3, where the company receives an instrument of transfer in accordance with rule 5.1(b), the company must register the transferee named in the instrument as the holder of the shares to which it relates.
- (d) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect of the shares.
- (e) The company must not charge a fee for the registration of a transfer of shares.
- (f) The company may retain any registered instrument of transfer for such period as the directors think fit.
- (g) Except in the case of fraud, the company must return any instrument of transfer which the directors decline to register to the person who deposited it with the company.

- (h) The directors may, to the extent permitted by law, waive all or any of the requirements of this rule 5.1.

5.2 Power to decline registration of transfers

Subject to any special rights conferred on the holders of any shares or class of shares, the directors may, in their absolute discretion, decline to register any transfer of shares.

5.3 Power to suspend registration of transfers

The directors may suspend the registration of transfers at such times and for such periods, not exceeding in total 30 days in any year, as they think fit.

5.4 Transmission of shares

- (a) In the case of the death of a member, the only persons the company will recognise as having any title to the member's shares or any benefits accruing in respect of those shares are:
- (1) the legal personal representative of the deceased where the deceased was a sole holder; and
 - (2) the survivor or survivors where the deceased was a joint holder.
- (b) Nothing contained in rule 5.4(a) releases the estate of a deceased member from any liability in respect of a share, whether that share was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a share as a result of a transmission event may, upon producing the certificate for the share and such other evidence as the directors may require to prove that person's entitlement to the share, elect:
- (1) to be registered as the holder of the share by signing and serving on the company a notice in writing stating that election; or
 - (2) to have some other person nominated by that person registered as the transferee of the share by executing a transfer of the share to that other person.
- (d) The rules relating to the right to transfer, and the registration of transfers of, shares apply, so far as they can and with such changes as are necessary, to any transfer under rule 5.4(c)(2) as if the relevant transmission event had not occurred and the transfer were signed by the registered holder of the share.
- (e) For the purpose of this constitution, where 2 or more persons are jointly entitled to any share in consequence of a transmission event they will, upon being registered as the holders of the share, be taken to hold the share as joint tenants and rule will apply to them.
- (f) Notwithstanding rule 5.4(a), the directors may register a transfer of shares signed by a member prior to a transmission event even though the company has notice of the transmission event.

6 General meetings

6.1 Calling general meetings

- (a) The directors may, whenever they think fit, call and arrange to hold a general meeting.
- (b) A general meeting may be called and arranged to be held only as provided by this rule 6.1 or as provided by sections 249D, 249E, 249F and 249G of the Act.
- (c) The directors may change the venue for, postpone or cancel a general meeting unless the meeting is called and arranged to be held by the members or the court under the Act. If a general meeting is called and arranged to be held under section 249D of the Act the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member or members.

6.2 Notice of general meetings

- (a) Subject to this constitution and to the rights or restrictions attached to any shares or class of shares, notice of a general meeting must be given within the time limits prescribed by the Act and in the manner authorised by rule 13.1 to each person who is at the date of the notice:
 - (1) a member;
 - (2) a director; or
 - (3) an auditor of the company.
- (b) A notice of a general meeting must specify the date, time and place of the meeting and state the general nature of the business to be transacted at the meeting.
- (c) It is not necessary for a notice of an AGM to state that the business to be transacted at the meeting includes the consideration of the annual financial report, directors' report and auditor's report, the appointment of the auditor or the fixing of the auditor's remuneration.
- (d) A person may waive notice of any general meeting by notice in writing to the company.
- (e) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 6.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 6.2(d); or

(B) has notified or notifies the company of the person's agreement to that act, matter, thing or resolution by notice in writing to the company.

(f) A person's attendance at a general meeting:

- (1) waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting; and
- (2) waives any objection that person may have to the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting or in rule 6.2(c), unless the person objects to considering the matter when it is presented.

6.3 Admission to general meetings

The chairperson of a general meeting may refuse admission to, or require to leave and remain out of, the meeting any person:

- (a) in possession of a pictorial-recording or sound-recording device;
- (b) in possession of a placard or banner;
- (c) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
- (d) who refuses to produce or to permit examination of any article, or the contents of any article, in the person's possession;
- (e) who behaves or threatens to behave in a dangerous, offensive or disruptive manner; or
- (f) who is not:
 - (1) a member or a proxy, attorney or representative of a member;
 - (2) a director; or
 - (3) an auditor of the company.

6.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- (b) A quorum consists of:
 - (1) if the number of members entitled to vote is 2 or more - 2 of those members; or
 - (2) if only 1 member is entitled to vote - that member, present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:

- (1) where the meeting was convened upon the requisition of members, the meeting must be dissolved; or
- (2) in any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

6.5 Chairperson of general meetings

- (a) The chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at each general meeting.
- (b) If at a general meeting:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

then if the directors have elected a deputy chairperson of directors, the deputy chairperson of directors must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chairperson at the meeting.
- (c) Subject to rule 6.5(a), if at a general meeting:
 - (1) there is no deputy chairperson of directors;
 - (2) the deputy chairperson of directors is not present within 15 minutes after the time appointed for the meeting; or
 - (3) the deputy chairperson of directors is present within that time but is not willing to act as chairperson of the meeting;

the members present must elect as chairperson of the meeting:

 - (4) another director who is present and willing to act; or
 - (5) if no other director willing to act is present at the meeting, a member who is present and willing to act.

6.6 Conduct of general meetings

- (a) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.
- (b) The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place,

but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.:

- (c) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.:
- (d) Except as provided by rule 6.6(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (e) Where a meeting is adjourned, the directors may change the venue of, postpone or cancel the adjourned meeting unless the meeting was called and arranged to be held by the members or the court under the Act. If a meeting is called and arranged to be held under section 249D of the Act the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member or members.

6.7 Decisions at general meetings

- (a) Except in the case of any resolution which as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting and any such decision is for all purposes a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution:
 - (1) the chairperson of the meeting will not have a second or casting vote; and
 - (2) the proposed resolution is to be taken as having been lost.
- (c) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is demanded before the vote is taken or before or immediately after the declaration of the result of the show of hands:
 - (1) by the chairperson of the meeting; or
 - (2) by any member present and having the right to vote on the resolution.
- (d) A demand for a poll does not prevent the continuance of a general meeting for the transaction of any business other than the question on which the poll has been demanded.
- (e) Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been carried or carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (f) If a poll is duly demanded at a general meeting, it will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson of the meeting directs, and the result of the poll will be the resolution of the meeting at which the poll was demanded.

- (g) A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- (h) The demand for a poll may be withdrawn.

6.8 Voting rights

- (a) Subject to this constitution and to any rights or restrictions attached to any shares or class of shares, at a general meeting:
 - (1) on a show of hands, every member present in person or by proxy, attorney or representative has 1 vote; and
 - (2) on a poll, every member present has 1 vote for each share held by the member and in respect of which the member is entitled to vote.
- (b) Where a person present at a general meeting represents personally or by proxy, attorney or representative more than 1 member:
 - (1) on a show of hands the person is entitled to 1 vote only despite the number of members the person represents;
 - (2) that vote will be taken as having been cast for all the members the person represents; and
 - (3) the person must not exercise that vote in a way which would contravene any directions given to the person in accordance with rule 6.9(f) in any instrument appointing the person as a proxy or attorney.
- (c) A joint holder may vote at any meeting in person or by proxy, attorney or representative as if that person was the sole holder. If more than 1 joint holder tenders a vote, the vote of the holder named first in the register must be accepted to the exclusion of the other or others.
- (d) The parent or guardian of an infant member may vote at any general meeting upon such evidence being produced of the relationship or of the appointment of the guardian as the directors may require and any vote so tendered by a parent or guardian of an infant member must be accepted to the exclusion of the vote of the infant member.
- (e) A person entitled to a share as a result of a transmission event may vote at any general meeting in respect of that share in the same manner as if that person were the registered holder of the share if, before the meeting, the directors have:
 - (1) admitted that person's right to vote at that meeting in respect of the share; or
 - (2) been satisfied of that person's right to be registered as the holder of, or to transfer, the share under rule 5.4(c),and any vote so tendered by such a person must be accepted to the exclusion of the vote of the registered holder of the share.
- (f) A member is not entitled to vote at a general meeting unless all calls and other sums of money presently payable by that member in respect of shares in the company have been paid.

- (g) An objection to the qualification of a person to vote at a general meeting:
 - (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) must be referred to the chairperson of the meeting, whose decision is final.
- (h) A vote not disallowed by the chairperson of a meeting under rule 6.8(g) is valid for all purposes.

6.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote
 - (1) in person, or where a member is a body corporate, by its representative;
 - (2) by proxy; or
 - (3) by attorney.

If the member may cast 2 or more votes at a meeting the member may vote by 2 proxies or 2 attorneys.
- (b) A proxy, attorney or representative may, but need not, be a member of the company.
- (c) A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the appointment of a proxy, attorney or representative or in the Act, an appointment will be taken to confer authority:
 - (1) to agree to a meeting being convened by shorter notice than is required by the Act or by this constitution;
 - (2) to speak to any proposed resolution on which the proxy, attorney or representative may vote;
 - (3) to demand or join in demanding a poll on any resolution on which the proxy, attorney or representative may vote;
 - (4) even though the instrument may refer to specific resolutions and may direct the proxy, attorney or representative how to vote on those resolutions:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and

- (5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) Where a member appoints 2 proxies or attorneys, the following rules apply:
 - (1) each proxy or attorney, as the case may be, may exercise half of the member's voting rights if the appointment does not specify a proportion or number of the member's voting rights the proxy or attorney may exercise;
 - (2) on a show of hands, neither proxy or attorney may vote; and
 - (3) on a poll, each proxy or attorney may only exercise the voting rights the proxy or attorney represents.
- (f) An instrument appointing a proxy or attorney may direct the manner in which the proxy or attorney is to vote in respect of a particular resolution and, where an instrument so provides, the proxy or attorney is not entitled to vote on the proposed resolution except as directed in the instrument.
- (g) An instrument appointing a proxy or attorney need not be in any particular form provided it is in writing, legally valid and signed by the appointer or the appointer's attorney.
- (h) Subject to rule 6.9(i), a proxy or attorney may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy or attorney, and the authority under which the instrument is signed, or a certified copy of the authority are:
 - (1) received at the registered office of the company, a fax number at the company's registered office or at such other place, fax number or electronic address specified for that purpose in the notice calling the meeting before the time for holding the meeting or adjourned meeting or taking the poll (as the case may be);
 - (2) in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
 - (3) in the case of a poll, produced when the poll is taken.
- (i) The directors may waive all or any of the requirements of rules 6.9(g) and 6.9(h) and in particular may, upon the production of such other evidence as the directors require to prove the validity of the appointment of a proxy or attorney, accept:
 - (1) an oral appointment of a proxy or attorney;
 - (2) an appointment of a proxy or attorney which is not signed or executed in the manner required by rule 6.9(g); and
 - (3) the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy or attorney or of the

power of attorney or other authority under which the instrument is signed.

- (j) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite:

- (1) a transmission event occurring in relation to the appointer; or
- (2) the revocation of the instrument or of the authority under which the instrument was executed,

if no notice in writing of the transmission event or revocation has been received by the company by the time and at 1 of the places at which the instrument appointing the proxy or attorney is required to be received under rule 6.9(h).

- (k) A vote given in accordance with the terms of an instrument appointing a proxy or attorney is valid despite the transfer of the share in respect of which the instrument was given if the transfer is not registered by the time at which the instrument appointing the proxy or attorney is required to be received under rule 6.9(h).

- (l) The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

7 Directors

7.1 Appointment and removal of directors

- (a) There must be:
- (1) not less than 3 directors; and
 - (2) subject to rule 7.1(c), not more than 12 directors.
- (b) The first directors are the persons who are specified with their consent as proposed directors in the application for registration of the company.
- (c) The company may by resolution:
- (1) increase or reduce the minimum or maximum number of directors; and
 - (2) appoint or remove a director.
- (d) The directors may appoint any natural person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but the total number of directors must not at any time exceed the maximum number allowed under this constitution.
- (e) Subject to rule 7.2 and to the terms of any agreement entered into between the company and the relevant director, a director holds office until the director dies or is removed from office pursuant to rule 7.1(c)(2).

7.2 Vacation of office

The office of a director becomes vacant:

- (a) in the circumstances prescribed by the Act;
- (b) if the director becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or
- (c) if the director resigns by notice in writing to the company.

7.3 Remuneration of directors

- (a) Each director is entitled to such remuneration out of the funds of the company as the directors determine, but if the company in general meeting has fixed a limit on the amount of remuneration payable to the directors, the aggregate remuneration of the directors under this rule 7.3(a) must not exceed that limit.
- (b) The remuneration of a director:
 - (1) may be a stated salary or a fixed sum for attendance at each meeting of directors or both; or
 - (2) may be a share of a fixed sum determined by the company in general meeting to be the remuneration payable to all directors, which is to be divided between the directors in the proportions agreed between them or, failing agreement, equally,and if it is a stated salary under rule 7.3(b)(1) or a share of a fixed sum under rule 7.3(b)(2), will be taken to accrue from day to day.
- (c) For the purposes of this constitution the amount fixed by the company as remuneration for a director, will not include any amount paid by the company or related body corporate:
 - (1) to a superannuation, retirement or pension fund for a director so that the company is not liable to pay the superannuation guarantee charge or similar statutory charge; or
 - (2) for any insurance premium paid or agreed to be paid for a director under rule 10.4.
- (d) In addition to his or her remuneration under rule 7.3(a), a director is entitled to be paid all travelling and other expenses properly incurred by that director in connection with the affairs of the company, including attending and returning from general meetings of the company or meetings of the directors or of committees of the directors.
- (e) If a director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of the company, the directors may arrange for a special remuneration to be paid to that director, either in addition to or in substitution for that director's remuneration under rule 7.3(a).
- (f) Nothing in rule 7.3(a) restricts the remuneration to which a director may be entitled as an officer of the company or of a related body corporate in a

capacity other than director, which may be either in addition to or in substitution for that director's remuneration under rule 7.3(a).

- (g) The directors may:
 - (1) at any time after a director dies or otherwise ceases to hold office as a director, pay to the director or a legal personal representative, spouse, relative or dependant of the director, in addition to the remuneration of that director under rule 7.3(a), a pension or lump sum payment in respect of past services rendered by that director; and
 - (2) cause the company to enter into a contract with the director for the purpose of providing for or giving effect to such a payment.
- (h) The directors may establish or support, or assist in the establishment or support of, funds and trusts to provide pension, retirement, superannuation or similar payments or benefits to or in respect of the directors or former directors.

7.4 Director need not be a member

- (a) A director is not required to hold any shares in the company to qualify for appointment.
- (b) A director is entitled to attend and speak at general meetings even though that director is not a member of the company.

7.5 Interested directors

- (a) A director may hold any other office or place of profit (other than auditor) in the company or any related body corporate in conjunction with his or her directorship and may be appointed to that office or place upon such terms as to remuneration, tenure of office and otherwise as the directors think fit.
- (b) A director of the company may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise and is not accountable to the company for any remuneration or other benefits received by the director as a director or officer of, or from having an interest in, that body corporate.
- (c) The directors may exercise the voting rights conferred by shares in any body corporate held or owned by the company in such manner in all respects as the directors think fit (including voting in favour of any resolution appointing a director as a director or other officer of that body corporate or voting for the payment of remuneration to the directors or other officers of that body corporate) and a director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (d) A director is not disqualified merely because of being a director from contracting with the company in any respect including, without limitation:

- (1) selling any property to, or purchasing any property from, the company;
 - (2) lending any money to, or borrowing any money from, the company with or without interest and with or without security;
 - (3) guaranteeing the repayment of any money borrowed by the company for a commission or profit;
 - (4) underwriting or guaranteeing the subscription for securities in the company or in any related body corporate or any other body corporate promoted by the company or in which the company may be interested as a shareholder or otherwise, for a commission or profit; or
 - (5) being employed by the company or acting in any professional capacity (other than auditor) on behalf of the company.
- (e) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is avoided or rendered voidable merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (f) No director contracting with or being interested in any arrangement involving the company is liable to account to the company for any profit realised by or under any such contract or arrangement merely because of the director holding office as a director or because of the fiduciary obligations arising out of that office.
- (g) Subject to rule 7.5(h), a director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
- (1) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
 - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) sign any document relating to that contract or arrangement or proposed contract or arrangement the company may execute.
- (h) Rule 7.5(g) does not apply if, and to the extent that, it would be contrary to the Act.
- (i) The directors may make regulations requiring the disclosure of interests that a director, and any person deemed by the directors to be related to or associated with the director, may have in any matter concerning the company or a related body corporate and any regulations made under this constitution will bind all directors.

7.6 Powers and duties of directors

- (a) The directors are responsible for managing the business of the company and may exercise to the exclusion of the company in general meeting all

the powers of the company which are not required, by the Act or by this constitution, to be exercised by the company in general meeting.

- (b) Without limiting the generality of rule 7.6(a), the directors may exercise all the powers of the company to borrow or otherwise raise money, to charge any property or business of the company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the company or of any other person.
- (c) The directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.
- (d) The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company and the vesting in it of the assets acquired by it.
- (e) The directors may:
 - (1) appoint or employ any person to be an officer, agent or attorney of the company for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the directors), for such period and upon such conditions as they think fit;
 - (2) authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and
 - (3) subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney of the company at any time, with or without cause.
- (f) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the directors think fit.

7.7 Proceedings of directors

- (a) The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means of a number of the directors sufficient to constitute a quorum, constitutes a meeting of the directors and the rules relating to meetings of the directors apply, so far as they can and with such changes as are necessary, to meetings of the directors by telephone or other electronic means.
- (c) A director participating in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting.
- (d) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chairperson of the meeting provided that at

least 1 of the directors involved was at that place for the duration of the meeting.

7.8 Convening of meetings of directors

- (a) A director may, whenever the director thinks fit, convene a meeting of the directors.
- (b) A secretary must, on the requisition of a director, convene a meeting of the directors.

7.9 Notice of meetings of directors

- (a) Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice:
 - (1) a director, other than a director on leave of absence approved by the directors; or
 - (2) an alternate director appointed under rule 7.14 by a director on leave of absence approved by the directors:
- (b) A notice of a meeting of directors:
 - (1) must specify the time and place of the meeting;
 - (2) need not state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting;
 - (4) may be given in person or by post or by telephone, fax or other electronic means; and
 - (5) will be taken to have been given to an alternate director if it is given to the director who appointed that alternate director.
- (c) A director or alternate director may waive notice of any meeting of directors by notifying the company to that effect in person or by post or by telephone, fax or other electronic means.
- (d) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the director or an alternate director appointed by the director:
 - (A) has waived or waives notice of that meeting under rule 7.9(c); or
 - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
 - (3) the director or an alternate director appointed by the director attended the meeting.

- (e) The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, an alternate director of a director on leave of absence approved by the directors does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the alternate director or the director who appointed the alternate director or another alternate director appointed by that director:
 - (A) has waived or waives notice of that meeting under rule 7.9(c); or
 - (B) has notified or notifies the company of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
 - (3) the alternate director or the director who appointed the alternate director or another alternate director appointed by that director attended the meeting.
- (f) Attendance by a person at a meeting of directors waives any objection that person and:
 - (1) if the person is a director, any alternate director appointed by that person; or
 - (2) if the person is an alternate director, the director who appointed that person as alternate director and any other alternate director appointed by that director,

may have to a failure to give notice of the meeting.

7.10 Quorum at meetings of directors

- (a) No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- (b) A quorum consists of:
 - (1) if the directors have fixed a number for the quorum, that number of directors; and
 - (2) in any other case, 2 directors,
 present at the meeting of directors.
- (c) If there is a vacancy in the office of a director then, subject to rule 7.10(d), the remaining director or directors may act.
- (d) If the number of directors in office at any time is not sufficient to constitute a quorum at a meeting of directors or is less than the minimum number of directors fixed under this constitution, the remaining director or directors must act as soon as possible:
 - (1) to increase the number of directors to a number sufficient to constitute a quorum and to satisfy the minimum number of directors required under this constitution; or

- (2) to convene a general meeting of the company for that purpose, and, until that has happened, must only act if and to the extent that there is an emergency requiring them to act.

7.11 Chairperson and deputy chairperson of directors

- (a) The directors may elect 1 of the directors to the office of chairperson of directors and may determine the period for which that director is to be chairperson of directors.
- (b) The directors may elect 1 of the directors to the office of deputy chairperson of directors and may determine the period for which that director is to be deputy chairperson of directors.
- (c) The office of chairperson of directors or deputy chairperson of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the director holding that office for the purposes of rule 7.3(e).
- (d) The chairperson of directors must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as chairperson at each meeting of directors.
- (e) If at a meeting of directors:
 - (1) there is no chairperson of directors;
 - (2) the chairperson of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,then if the directors have elected a deputy chairperson of directors, the deputy chairperson of directors must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as the chairperson of the meeting.
- (f) Subject to rule 7.11(d), if at a meeting of directors:
 - (1) there is no deputy chairperson of directors;
 - (2) the deputy chairperson of directors is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the deputy chairperson of directors is present within that time but is not willing to act as chairperson of the meeting,

the directors present must elect 1 of themselves to be chairperson of the meeting.

7.12 Decisions of directors

- (a) A meeting of directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under this constitution.

- (b) Questions arising at a meeting of directors are to be decided by a majority of votes cast by the directors present and any such decision is for all purposes a determination of the directors.
- (c) In the case of an equality of votes upon any proposed resolution:
 - (1) the chairperson of the meeting will not have a second or casting vote; and
 - (2) the proposed resolution is to be taken as having been lost.

7.13 Written resolutions

- (a) If:
 - (1) all of the directors, other than:
 - (A) any director on leave of absence approved by the directors;
 - (B) any director who disqualifies himself or herself from considering the act, matter, thing or resolution in question on the grounds that he or she is not entitled at law to do so or has a conflict of interest; and
 - (C) any director who the directors reasonably believe is not entitled at law to do the act, matter or thing or to vote on the resolution in question,

assent to a document containing a statement to the effect that an act, matter or thing has been done or resolution has been passed; and

- (2) the directors who assent to the document would have constituted a quorum at a meeting of directors held to consider that act, matter, thing or resolution,

then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the directors.

- (b) For the purposes of rule 7.13(a):
 - (1) the meeting is to be taken as having been held:
 - (A) if the directors assented to the document on the same day, on the day on which the document was assented to and at the time at which the document was last assented to by a director; or
 - (B) if the directors assented to the document on different days, on the day on which, and at the time at which, the document was last assented to by a director;
 - (2) 2 or more separate documents in identical terms each of which is assented to by 1 or more directors are to be taken as constituting 1 document; and
 - (3) a director may signify assent to a document by signing the document or by notifying the company of the director's assent in person or by post or by telephone, fax or other electronic means.

- (c) Where a director signifies assent to a document otherwise than by signing the document, the director must by way of confirmation sign the document at the next meeting of the directors attended by that director, but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

7.14 Alternate directors

- (a) A director may appoint, with the approval of a majority of the other directors:
- (1) a person to be the director's alternate director for such period as the director thinks fit; and
 - (2) another person to be the director's alternate director in the absence of any alternate director appointed under rule 7.13(a)(1).
- (b) An alternate director may, but need not, be a member or a director of the company.
- (c) One person may act as alternate director to more than 1 director.
- (d) An alternate director is entitled, if the appointer does not attend a meeting of directors, to attend and vote in place of and on behalf of the appointer.
- (e) An alternate director is entitled to a separate vote for each director the alternate director represents in addition to any vote the alternate director may have as a director in his or her own right.
- (f) In the absence of the appointer, an alternate director may exercise any powers that the appointer may exercise and the exercise of any such power by the alternate director is to be taken to be the exercise of the power by the appointer.
- (g) The office of an alternate director is vacated if and when the appointer vacates office as a director.
- (h) The appointment of an alternate director may be terminated at any time by the appointer even though the period of the appointment of the alternate director has not expired.
- (i) An appointment, or the termination of an appointment, of an alternate director must be in writing signed by the director who makes or made the appointment and does not take effect unless and until the company has received notice in writing of the appointment or termination.
- (j) An alternate director is not to be taken into account in determining the minimum or maximum number of directors allowed under this constitution.
- (k) In determining whether a quorum is present at a meeting of directors, an alternate director who attends the meeting is to be counted as a director for each director on whose behalf the alternate director is attending the meeting.
- (l) An alternate director is entitled to be paid such remuneration as the directors think fit, either in addition to or in reduction of the remuneration payable to the director for whom the alternate director acts as alternate.

- (m) An alternate director is not entitled to be remunerated by the company for his or her services as alternate director except as provided in rule 7.14(l).
- (n) An alternate director, while acting as a director, is responsible to the company for his or her own acts and defaults and is not to be taken to be the agent of the director by whom he or she was appointed.

7.15 Committees of directors

- (a) The directors may delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.
- (b) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) The rules applying to meetings and resolutions of directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee of directors.
- (d) Membership of a committee of directors may, if the directors so resolve, be treated as an extra service or special exertion performed by the members for the purposes of rule 7.3(e).

7.16 Delegation to individual directors

- (a) The directors may delegate any of their powers to 1 director.
- (b) A director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the directors.
- (c) Acceptance of such a delegation may, if the directors so resolve, be treated as an extra service or special exertion performed by the delegate for the purposes of rule 7.3(e).

7.17 Validity of acts

An act done by a person acting as a director or by a meeting of directors or a committee of directors attended by a person acting as a director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a director;
- (b) the person being disqualified to be a director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the directors or committee (as the case may be) when the act was done.

8 Executive officers

8.1 Managing directors

- (a) The directors may appoint 1 or more of the directors to the office of managing director.

- (b) A managing director's appointment as managing director automatically terminates if the managing director ceases to be a director.

8.2 Deputy managing directors

- (a) The directors may appoint 1 or more of the directors to the office of deputy managing director.
- (b) A deputy managing director's appointment as deputy managing director automatically terminates if the deputy managing director ceases to be a director.

8.3 Executive directors

- (a) A reference in this rule 8.3 to an executive director is a reference to a director who is also an officer of the company or of a related body corporate in a capacity other than director, managing director or deputy managing director.
- (b) The directors may confer on an executive director such title as they think fit.
- (c) An executive director may be appointed on the basis that the executive director's appointment:
 - (1) as a director automatically terminates if the executive director ceases to be an officer of the company or of a related body corporate in a capacity other than director; or
 - (2) as an officer of the company or of a related body corporate in a capacity other than director automatically terminates if the executive director ceases to be a director.

8.4 Associate directors

- (a) The directors may appoint 1 or more associate directors.
- (b) The directors may confer on an associate director such title as they think fit.
- (c) Even though the word "director" may appear in an associate director's title, an associate director is not to be taken to be a director of the company and is not entitled:
 - (1) to attend any meeting of directors except by the invitation and with the consent of the directors; or
 - (2) to vote at any meeting of directors.

8.5 Secretaries

- (a) The directors must appoint at least 1 secretary and may appoint additional secretaries.
- (b) The directors may appoint 1 or more assistant secretaries.

8.6 Provisions applicable to all executive officers

- (a) A reference in this rule 8.6 to an executive officer is a reference to a managing director, deputy managing director, executive director, associate director, secretary or assistant secretary appointed under this rule 8.
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the directors think fit.
- (c) Subject to any contract between the company and the relevant executive officer, any executive officer of the company may be removed or dismissed by the directors at any time, with or without cause.
- (d) The directors may:
 - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the directors) as they think fit;
 - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An executive officer is not required to hold any shares to qualify for appointment.
- (f) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (1) a defect in the person's appointment as an executive officer; or
 - (2) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

9 Indemnity and insurance

9.1 Persons to whom rules 9.2 and 9.3 apply

Rules 9.2 and 9.3 apply:

- (a) to each person who is or has been a director, alternate director or executive officer (within the meaning of rule 8.6(a)) of the company;
 - (b) to such other officers or former officers of the company or of its related bodies corporate as the directors in each case determine; and
 - (c) if the directors so determine, to any auditor or former auditor of the company or of its related bodies corporate,
- (each an Officer for the purposes of this rule).

9.2 Indemnity

Subject to rule 9.3, the company must indemnify each Officer on a full indemnity basis and to the full extent permitted by law against all losses, liabilities, costs,

charges and expenses (Liabilities) incurred by the Officer as an officer of the company, including without limitation:

- (a) a liability for negligence; and
- (b) a liability for reasonable legal costs.

9.3 Limit on indemnity

- (a) The indemnity in rule 9.2 does not operate in relation to any Liability which:
 - (1) is a Liability to the company or any of its related bodies corporate;
 - (2) is a Liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
 - (3) arises out of conduct of the Officer which was not in good faith, or which involves wilful misconduct, gross negligence, reckless misbehaviour or fraud,provided that this rule 9.3(a) does not apply to a liability for legal costs.
- (b) The indemnity in rule 9.2 does not operate in relation to legal costs incurred by the Officer in defending an action for a Liability if the costs are incurred:
 - (1) in defending or resisting proceedings in which the Officer is found to have a Liability referred to in rule 9.3(a);
 - (2) in defending or resisting criminal proceedings in which the Officer is found guilty;
 - (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this does not include costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or
 - (4) in connection with proceedings for relief to the Officer under the Act in which the court denies the relief.
- (c) If there is any appeal in relation to any proceedings referred to in rule 9.3(b), it is the outcome of the final appeal that is relevant for the purposes of rule 9.3(b).
- (d) The indemnity in rule 9.2:
 - (1) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
 - (2) does not operate in respect of any Liability of the Officer to the extent that Liability is covered by insurance.

9.4 Extent of indemnity

The indemnity in rule 9.2:

- (a) is enforceable without the Officer having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Officer even though the Officer may have ceased to be an officer of the relevant Group Company; and
- (c) applies to Liabilities incurred both before and after the date of this deed.

9.5 Insurance

The company may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Officer against any Liability incurred by the Officer as an officer or auditor of the company or of a related body corporate including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

9.6 Savings

Nothing in rule 9.2 or 9.3:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or
- (b) limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

10 Winding up

10.1 Distribution of surplus

Subject to this constitution and to the rights or restrictions attached to any shares or class of shares:

- (a) if the company is wound up and the property of the company is more than sufficient:
 - (1) to pay all of the debts and liabilities of the company; and
 - (2) the costs, charges and expenses of the winding up,

the excess must be divided among the members in proportion to the number of shares held by them, irrespective of the amounts paid or credited as paid on the shares;
- (b) for the purpose of calculating the excess referred to in rule 10.1(a), any amount unpaid on a share is to be treated as property of the company;
- (c) the amount of the excess that would otherwise be distributed to the holder of a partly paid share under rule 10.1(a) must be reduced by the amount unpaid on that share at the date of the distribution; and

- (d) if the effect of the reduction under rule 10.1(c) would be to reduce the distribution to the holder of a partly paid share to a negative amount, the holder must contribute that amount to the company.

10.2 Division of property

- (a) If the company is wound up, the liquidator may, with the sanction of a special resolution:
 - (1) divide among the members the whole or any part of the property of the company; and
 - (2) determine how the division is to be carried out as between the members or different classes of members.
- (b) Any division under rule 10.2(a) may be otherwise than in accordance with the legal rights of the members and, in particular, any class may be given preferential or special rights or may be excluded altogether or in part.
- (c) Where a division under rule 10.2(a) is otherwise than in accordance with the legal rights of the members, a member is entitled to dissent and to exercise the same rights as if the special resolution sanctioning that division were a special resolution passed under section 507 of the Act.
- (d) If any of the property to be divided under rule 10.2(a) includes securities with a liability to calls, any person entitled under the division to any of the securities may within 10 days after the passing of the special resolution referred to in that rule, by notice in writing direct the liquidator to sell the person's proportion of the securities and to account for the net proceeds and the liquidator must, if practicable, act accordingly.
- (e) Nothing in this rule 10.2 derogates from or affects any right to exercise any statutory or other power which would have existed if this rule were omitted.
- (f) Rule 4.3 applies, so far as it can and with such changes as are necessary, to a division by a liquidator under rule 10.2(a) as if references in rule 4.3 to the directors and to a distribution or capitalisation were references to the liquidator and to the division under rule 10.2(a) respectively.

11 Minutes and records

11.1 Minutes of meetings

The directors must ensure minutes of proceedings and resolutions of general meetings and of meetings of directors (including committees of directors) are recorded in books kept for the purpose, within 1 month after the relevant meeting is held.

11.2 Minutes of resolutions passed without a meeting

The directors must ensure minutes of resolutions passed by directors (and committees of directors) without a meeting are recorded in books kept for the purpose within 1 month after the resolution is passed.

11.3 Signing of minutes

- (a) The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.
- (b) The minutes of the passing of a resolution without a meeting must be signed by a director within a reasonable time after the resolution is passed.

11.4 Minutes as evidence

A minute that is recorded and signed under rules 11.1 and 11.2 is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

11.5 Inspection of records

- (a) The directors must ensure the minute books for general meetings are open for inspection by members free of charge.
- (b) Subject to rule 11.5(a), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open to the inspection of members (other than directors).
- (c) A member (other than a director) does not have the right to inspect any books, records or documents of the company except as provided by law or authorised by the directors.

12 Execution of documents

12.1 Manner of execution

The company may execute a document if the document is signed by:

- (a) 2 directors; or
- (b) a director and a secretary.

12.2 Common seal

The company may have a common seal. If the company has a common seal, rules 12.3 to 12.8 will apply.

12.3 Safe custody of seal

The directors must provide for the safe custody of the seal.

12.4 Use of seal

- (a) The seal must be used only by the authority of the directors or of a committee of the directors authorised by the directors to authorise the use of the seal.
- (b) The authority to use the seal may be given before or after the seal is used.
- (c) Subject to rule 12.8, until the directors otherwise determine, every document to which the seal is fixed must be signed by:

- (1) 2 directors;
- (2) a director and a secretary; or
- (3) a director and another person appointed by the directors to countersign that document or a class of documents in which that document is included.

12.5 Seal register

- (a) The company may keep a seal register. If the company does keep a seal register the company must enter in the register particulars of any document on which the seal is fixed (other than a certificate for securities of the company), giving in each case:
 - (1) the date of the document;
 - (2) the names of the parties to the document;
 - (3) a short description of the document; and
 - (4) the names of the persons signing the document under rule 12.4(c).
- (b) The register must be produced at meetings of directors for confirmation of the use of the seal since confirmation was last given under this rule 12.5.
- (c) Failure to comply with rule 12.5(a) or (b) does not invalidate any document to which the seal is properly fixed.

12.6 Duplicate seal

- (a) The company may have for use in place of its common seal outside the state or territory where its common seal is kept 1 or more duplicate seals, each of which must be a facsimile of the common seal of the company with the addition on its face of the words "duplicate seal" and the name of the place where it is to be used.
- (b) A document sealed with a duplicate seal is to be taken as having been sealed with the common seal of the company.

12.7 Share seal or certificate seal

- (a) The company may have for use on certificates for securities of the company in place of its common seal 1 or more share seals or certificate seals, each of which must be a facsimile of the common seal of the company with the addition on its face of the words "share seal" or "certificate seal".
- (b) A certificate for securities of the company sealed with a share seal or certificate seal is to be taken as having been sealed with the common seal of the company.

12.8 Sealing and signing of certificates

The directors may determine either generally or in a particular case that the seal and the signature of any director or secretary or other person is to be printed on or affixed to any certificates for securities in the company by some mechanical or other means.

13 Notices

13.1 Notices by the company to members

- (a) A notice may be given by the company to a member by serving it personally at, or by sending it by post in a prepaid envelope to, the member's address as shown in the register of members or such other address, or by sending it to the fax number or electronic address the member has supplied to the company for the giving of notices.
- (b) A notice may be given by the company to the joint holders of a share by giving the notice in the manner authorised by rule 13.1 to the joint holder first named in the register of members in respect of the share.
- (c) A notice may be given by the company to a person entitled to a share as a result of a transmission event by serving it or sending it in the manner authorised by rule 13.1(a) addressed to the name or title of the person, at or to such address, fax number or electronic address supplied to the company for the giving of notices to that person, or if no address, fax number or electronic address has been supplied, at or to the address, fax number or electronic address to which the notice might have been sent if the relevant transmission event had not occurred.
- (d) The fact that a person has supplied a fax number or an electronic address for the giving of notices does not require the company to give any notice to that person by fax or electronic means.
- (e) A notice given to a member in accordance with rules 13.1(a) or (b) is, despite the occurrence of a transmission event and whether or not the company has notice of that occurrence:
 - (1) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
 - (2) sufficient service on any person entitled to the shares as a result of the transmission event.
- (f) A notice given to a person who is entitled to a share as a result of a transmission event is sufficient service on the member in whose name the share is registered.
- (g) Any person who, because of a transfer of shares, becomes entitled to any shares registered in the name of a member is bound by every notice which, before that person's name and address is entered in the register of members in respect of those shares, is given to the member in accordance with this rule 13.1.

- (h) A signature to any notice given by the company to a member under this rule 13.1 may be in writing or a facsimile printed or affixed by some mechanical or other means.
- (i) A certificate signed by a director or secretary of the company to the effect that a notice has been given in accordance with this constitution is conclusive evidence of that fact.

13.2 Notices by the company to directors

Subject to this constitution, a notice may be given by the company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address, or such other address, or by sending it to the fax number or electronic address as the director or alternate director has supplied to the company for the giving of notices.

13.3 Notices by members or directors to the company

Subject to this constitution, a notice may be given by a member, director or alternate director to the company by serving it on the company at, or by sending it by post in a prepaid envelope to, the registered office of the company or by sending it to the principal fax number or principal electronic address of the company at its registered office.

13.4 Notices posted to addresses outside the Commonwealth

A notice sent by post to an address outside the Commonwealth must be sent by airmail.

13.5 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected:
 - (1) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (2) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax or electronic means, service of the notice is to be taken to be effected on the day after the date it is sent.

13.6 Other communications and documents

Rules 13.1 to 13.5 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

13.7 Notices in writing

A reference in this constitution to a notice in writing includes a notice given by fax or electronic means.

14 General

14.1 Submission to jurisdiction

Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State or Territory in which the company is taken to be registered under the Act, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

14.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.

DATED: 13 September 2001

Annexure 3 – Trust Deed

Transurban MF Holdings Trust Deed

between

Transurban Infrastructure Management Limited as trustee for the
Transurban Holdings Trust

and

Transurban Infrastructure Management Limited
ACN 098 147 678

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Ref: #415338 v1/KFA

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Transurban MF Trust Deed

This Deed is made on 25 April 2004.

Between

Transurban Infrastructure Management Limited ACN 098 147 678 as trustee for the Transurban Holdings Trust of Level 43, 525 Collins Street, Melbourne, Victoria 3000, Australia ("Initial Unit Holder")

and

Transurban Infrastructure Management Limited ACN 098 147 678 of Level 43, 525 Collins Street, Melbourne, Victoria 3000, Australia ("Trustee")

Recitals

- A. The Initial Unit Holder has paid the Initial Sum to the Trustee to establish a trust on the terms of this Deed.
- B. The Trustee has agreed to act as trustee of the Trust and to hold all moneys, assets and investments on the trusts and conditions set out in this Deed.
- C. The provisions of this Deed apply to bind the Unit Holders and also to benefit them.

Operative provisions

1. Definitions

1.1 Definitions

In this Deed unless the context requires another meaning:

"Act" means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*, or both of them, as appropriate;

"Assets" means all cash, investments, rights and other property of the Trust, but does not include:

- (a) application monies in respect of which Units are yet to be issued;
- (b) redemption amounts not yet paid;
- (c) any Distribution which is payable, but not yet paid (including assets held on trust in accordance with clause 9.4(d) or clause 12.3(b)); or

- (d) any Distribution which is payable, but not yet paid, and is transferred to a distribution account in accordance with clauses 12.3 and 12.4;

"Associate" has the same meaning as in the Law;

"Auditor" means the auditor for the time being of the Trust;

"Business Day" means a day that banks are open for banking business, other than a Saturday or Sunday, in Melbourne, Australia;

"Class" means a class of Units created under clause 4.2;

"Distribution" for a Distribution Period means the amount determined under clause 12.3;

"Distribution Date" means the date which is 2 months after the expiration of each Distribution Period;

"Distribution Period" means the period ending 30 June or 31 December (as the case may be) in each year in which the Trust is established, or such other dates the Trustee determines;

"Dollars" and **"\$"** means the lawful currency of Australia;

"Financial Year" means the period from execution of this Deed to midnight on 30 June 2004 and each subsequent year commencing on 1 July and ending at midnight on 30 June;

"Government Agency" means:

- (a) a government, whether foreign, federal, state, territorial or local;
- (b) a department, office or minister of a government acting in that capacity; or
- (c) a commission, delegate, instrumentality, agency, board, or other government, semi-government, judicial, administrative, monetary or fiscal authority, whether statutory or not;

"GST" means goods and services tax as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or any like tax;

"Initial Sum" means the amount of \$50.00 paid by the Initial Unit Holder to the Trustee on the signing of this Deed;

"Insurable Assets" means all assets of an insurable nature which in the opinion of the Trustee are in the normal course of business usually insured;

"Issue Price" means the issue price specified in clause 6.1 or any other price determined by the Trustee from time to time;

"Law" means the *Corporations Act 2001* (Cth);

"Net Asset Value of a Class" means:

- (a) the value of the Assets of a particular Class;

(b) less the liabilities attributed or attributable to the particular Class,
all as determined under clause 15;

"Non-Assessable Income" means income which the Trustee in its absolute discretion considers is not Section 95 Income for a Distribution Period;

"Redemption Price" means the redemption price determined in accordance with clause 9.1;

"Register" means the register of Unit Holders required to be maintained by this Deed;

"Resolution" means:

- (a) a resolution passed at a meeting of Unit Holders of the Trust:
 - (i) on a show of hands, by the required majority of Unit Holders present in person or by proxy; or
 - (ii) if a poll is duly demanded, by the required majority of the number of Units held by Unit Holders present and voting on the poll, in person or by proxy; or
- (b) unless prohibited by any law, a written resolution signed by Unit Holders holding the required majority of the Units in the Trust,

and unless otherwise stated a required majority is a simple majority;

"Section 95 Income" means "net income" within the meaning of section 95 of the Act for a Distribution Period;

"Special Resolution" means a Resolution where the required majority is 75%;

"Tax" means a tax, levy, charge, impost, deduction, withholding or duty of any nature (including GST, stamp and transaction duty) imposed at any time by any Government Agency;

- (a) payable now or in the future; or
- (b) required to be remitted to, or imposed, levied, collected, withheld or assessed by any Government Agency,

and any interest, expense, fine, penalty or other charge for those amounts;

"Termination Date" means the date the Trust is to be wound up under this Deed or the Law;

"Transaction Costs" means:

- (a) in respect of determining the Issue Price, the Trustee's estimate of the total costs of acquiring the Assets of that Class; or

- (b) in respect of determining the Redemption Price, the Trustee's estimate of the total costs of disposing all the Assets of that Class,

which, in either case, the Trustee may reduce to a lesser amount or zero;

"Trust" means the unit trust established by this Deed;

"Trustee" means the trustee for the time being of the Trust;

"Unit" means an undivided part or share of the Assets evidenced by a Unit held by a Unit Holder under this Deed; and

"Unit Holder" means the person for the time being registered under the provisions of this Deed as the holder of a Unit and includes persons registered jointly.

1.2 Interpretation

In this Deed, unless the context otherwise requires:

- (a) a reference:

- (i) to the singular include the plural and vice versa;
- (ii) to any document (including this Deed) include references to that document as amended, consolidated, supplemented, novated or replaced;
- (iii) to an agreement includes any deed, agreement or legally enforceable arrangement or understanding whether written or not;

- (iv) to any person or any party includes:

- (A) references to any individual, company, body corporate, association, partnership, firm, joint venture, trust and Government Agency as the case requires; and

- (B) that person's successors, permitted assigns, substitutes, executors and administrators;

- (v) to law:

- (A) includes references to any constitutional provision, treaty, decree, convention, statute, act, regulation, rule, ordinance, proclamation, subordinate legislation, by-law, judgment, rule of common law or equity, rule of any applicable stock exchange; and

- (B) is a reference to that law as amended, consolidated, supplemented or replaced;

- (vi) to judgment include references to any order, injunction, decree, determination or award of any court or tribunal;

- (vii) to proceeding include litigation, arbitration, and investigation;
- (viii) to deliver include cause to be delivered and references to sell include procure the sale of;
- (ix) to time are references to Melbourne, Australia time;
- (b) headings are for convenience only and must be ignored in construing this Deed;
- (c) if a period of time is specified and dates from, after or before a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (d) if a payment or other act must (but for this clause 1.2(d)) be made or done on a day which is not a Business Day, then it must be made or done on the next following Business Day;
- (e) a warranty, representation, covenant or obligation given or entered into by more than one person binds them jointly and severally;
- (f) the words "including" or "includes" mean "including, but not limited to" or "including without limitation";
- (g) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (h) this Deed must not be construed adversely to a party solely because that party was responsible for preparing it; and
- (i) where any party is required to provide, or may provide, a notice or application in writing to the other party, then the Trustee may permit that notice or application to be given in electronic form and on such other terms and conditions as the Trustee may determine.

2. Trust

2.1 Name of Trust

The Trust is to be known as the Transurban MF Holdings Trust.

2.2 Trustee's consent to act

Transurban Infrastructure Management Limited is hereby appointed and agrees to act as trustee of the Trust.

2.3 Initial Sum

The Trustee acknowledges receipt of the Initial Sum which entitles the Initial Unit Holder to be entered in the register as the holder of 50 Units.

2.4 Trust fund

- (a) The Trustee holds the Assets on trust for the Unit Holders on the trusts and subject to the terms of this Deed.
- (b) The Assets vests in the Trustee but must be held as a separate fund.

3. Beneficial interest of Unit Holders

3.1 Beneficial interest in the Assets

Subject to any contrary right of holders of Units of a Class, the beneficial interest in the Trust is vested:

- (a) in the Unit Holders for the time being; and
- (b) if there is more than one Unit Holder, in those Unit Holders in proportion determined under the rights attaching to the Units each holds.

3.2 No entitlement to any part of the Assets

Subject to any contrary rights of holders of Units of a Class:

- (a) a Unit does not entitle the holder of the Unit to any particular asset comprised in, or any particular part of, the Trust; and
- (b) each Unit entitles a Unit Holder equally with all other Unit Holders to the beneficial interest in the Trust as an entirety.

3.3 Restrictions

A Unit Holder must not:

- (a) interfere with any rights or powers of the Trustee under this Deed;
- (b) exercise a right in respect of an Asset or lodge a caveat or other notice affecting an Asset or otherwise claim any interest in an Asset; or
- (c) require an Asset to be transferred to the Unit Holder.

3.4 Bound by Deed

Each person upon becoming registered as the holder of a Unit (and any person claiming through them) is entitled to the benefit of and is bound by the terms of this Deed and all special rights, restrictions and conditions (if any) attaching to the Unit from time to time.

4. Units

4.1 Issue of Units

Subject to this Deed, the Trustee may create and issue additional Units from time to time.

4.2 Classification of Units

The Trustee may from time to time issue Units in different classes by attaching special rights, restrictions or other conditions to those Units. The Trustee must enter the terms of any special rights, restrictions or other conditions of a Class in the Register.

4.3 Fractions and splitting

- (a) Units may be issued in fractions at the discretion of the Trustee, and the value of, and all rights and obligations attaching to, a fractional Unit will be in proportion to those of a whole Unit.
- (b) Where a holding comprises more than one fraction of a Unit, the Trustee may consolidate those fractions.
- (c) The Trustee may consolidate or split the Units. The Trustee must for any consolidation or split:
 - (i) immediately amend the Register to record the consolidation or split;
 - (ii) notify the Unit Holder within 30 days of the consolidation or split; and
 - (iii) ensure that each Unit is consolidated or split on the same basis as each other Unit.

4.4 Issue of partly paid Units

- (a) The Trustee may offer any Units as partly paid Units, the Issue Price of which is payable on issue and by instalments.
- (b) The Trustee must set out the terms of issue of the partly paid Units in the document offering those Units for subscription, including the amount and time for payment of the instalments unless these are left to the discretion of the Trustee.
- (c) The whole of the unpaid Issue Price of each partly paid Unit is payable immediately upon termination of the Trust.
- (d) A Unit Holder who holds a partly paid Unit must pay the instalments of the Issue Price in accordance with the terms of issue and in accordance with this Deed.

4.5 Failure to pay instalment on partly paid Unit

- (a) If a Unit Holder does not pay an amount due on a partly paid Unit on the due date, the Trustee has a first and paramount lien over Units registered in the name of the Unit Holder which has failed to pay the amount due, including in respect of any fees or unpaid calls which are payable to the Trustee in respect of those Units and also for such amounts of interest which may be payable on such unpaid amounts in accordance with the terms of issue of the partly paid Units. The lien extends to distributions from time to time declared in respect of such Units and any costs incurred by the Trustee in relation to recovering any amounts due on the sale of the Units. If the Trustee registers any transfer of any Units which it has a lien, those Units are freed and discharged from the lien.
- (b) The Trustee may sell any partly paid Units on which the Trustee has a lien as agent for the Unit Holder in any manner the Trustee thinks fit provided that no sale can be made:
 - (i) unless the sum in respect of which the lien exists is presently payable; and
 - (ii) until the expiration of 14 days after a notice in writing, stating and demanding payment of the amount which is presently payable, has been given the Unit Holder of the partly paid Units or the person entitled to the Units by reason of the death or bankruptcy of the Unit Holder.
- (c) The proceeds of the sale will be received by the Trustee and applied in payment of that part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) will be paid to the person entitled to the partly paid Units at the date of the sale.
- (d) For the purpose of giving effect to a sale under this clause 4.5, the Trustee may authorise a person to transfer the Units sold to a purchaser of those Units. The purchaser will be registered as the holder of the Units comprised in any such transfer, and will not be bound to see to the application of the purchase money, nor will the purchaser's title to the Units be subject to any irregularity or invalidity in connection with the sale.

5. Modification of Class rights

5.1 Variation of Class rights

The Trustee may at any time modify or vary the rights attaching to a Class in a Trust provided:

- (a) the modification or variation does not adversely affect the rights of other Unit Holders; and
- (b) all the Unit Holders of that Class at that time consent in writing to the modification or variation.

5.2 Effect of variation

Upon the rights attaching to a Class being modified or varied under this clause 5:

- (a) the Units of that Class will be held subject to any preferred, deferred or other special rights or any restrictions, as modified or varied; and
- (b) the Trustee must note the Register as a result.

6. Application for Units

6.1 Issue Price for Units

- (a) Subject to clause 2.3, the issue price of a Unit of a Class must be determined according to the following formula:

$$\text{Issue Price} = \frac{\text{Net Asset Value of a Class} + \text{Transaction Costs}}{\text{Number of Units on Issue in Class}}$$

- (b) The Trustee may determine the Net Asset Value of a Class and Transaction Costs at such times as may be convenient for the purposes of determining the Issue Price.
- (c) The Trustee may notify Unit Holders and applicants from time to time of the times at which Net Asset Value will be determined and the time when applications must be received by the Trustee.
- (d) The Issue Price may be rounded as the Trustee determines to the nearest whole cent.

6.2 Number of Units issued

- (a) If the Trustee accepts an application for Units in whole or in part, the number of Units issued is the number determined by the Trustee by dividing the relevant application moneys accepted by the Trustee by the Issue Price.
- (b) If the Trustee accepts an application for partly paid Units in whole or in part, the number of Units issued is the number determined by the Trustee dividing the relevant application moneys accepted by the Trustee by that part of the Issue Price for a Unit which is to be paid on application.

6.3 Application for Units

A person who wishes to subscribe for Units must:

- (a) complete or make an application in the form or manner determined by the Trustee;
- (b) lodge or make the application at the place or address and in the manner determined by the Trustee; and

- (c) include with the application the application moneys in the form or manner specified by the Trustee or by the transfer of property to be vested in the Trustee.

6.4 Allotment

A Unit created is regarded as issued or granted to the person entitled to it if and when the person's name is recorded in the Register. No rights whatsoever attach to a Unit until it is issued.

6.5 Trustee's discretion on application

The Trustee may in its absolute discretion accept or refuse to accept in whole or in part any application for Units.

6.6 Minimum application

The Trustee may from time to time set a minimum application amount for Units.

6.7 Restriction on issue of Units

- (a) A Unit may not be issued to a person who is the Trustee or one of a number of trustees of the Trust. Nothing in this clause 6.7(a) is to be taken as restricting the issue of Units to:
- (i) a director, officer or member of a corporate trustee of the Trust;
 - (ii) a sole director or a sole member of a corporate trustee of the Trust; or
 - (iii) any person who is a "special trustee" within the meaning of that term in section 33(1) of the *Duties Act 2000* (Vic).
- (b) A Unit may not be issued if that issue would result in a breach of clause 6.6.

6.8 Compliance with Law

The Trustee must ensure that all issues of Units in the Trust that are made or to be made do not need disclosure to investors under Part 6D.2 of the Law when they were or are made.

7. Register of Unit Holders

7.1 Details of Register

The Trustee must maintain an up-to-date register of the Unit Holders in which is entered:

- (a) the names of the Trust and the Trustee;
- (b) the name and address of each Unit Holder as provided to the Trustee;
- (c) the number of Units for which each Unit Holder (or joint holders) is registered;

- (d) the date of issue of Units;
- (e) where distinctive numbers are used by the Trustee, the numbers of the Units or certificates;
- (f) particulars of transfers of Units;
- (g) particulars of redemption of Units;
- (h) special rights, restrictions or other conditions (if any) affecting or attaching to particular Units and changes to same; and
- (i) such other particulars as the Trustee may decide.

7.2 Joint holders

Where 2 or more persons are registered as a Unit Holder of a Unit ("joint holders") they are, for the purposes of the administration of the Trust only, deemed to hold the Unit as joint tenants on the following conditions:

- (a) the Trustee is not bound to register more than 3 persons as the joint holders of the Unit;
- (b) the joint holders are jointly and severally liable for all payments, including payment of Tax, which ought to be made in respect of the Unit;
- (c) on the death of a joint holder, the survivor or survivors are the only person or persons whom the Trustee will recognise as having any title to the Unit but the Trustee may require any evidence of death which it thinks fit;
- (d) any one of the joint holders may give an effective receipt which will discharge the Trustee for any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the joint holders is entitled to delivery of any notices, cheques or other communications and any such notices, cheques or communications given to that person is deemed to be given to all the joint holders.

7.3 Consequence of registration

Except as is otherwise expressly provided in this Deed, a person who is entered in the register as the holder of a Unit is the only person recognised by the Trustee as entitled to the Unit.

7.4 Change of address

If a Unit Holder gives the Trustee notice in writing of a change of address, the Trustee must delete the previous address of that Unit Holder as shown in the register as soon as may be practicable and insert the new address as notified in its place.

7.5 No recognition of Trust

Unit Holders have an absolute right to the Units registered in their name. The Trustee is not bound to recognise, even when having notice, any equitable, contingent or future interest, or a severable part interest, in a Unit, or in a trust for the holding of a Unit, except as may otherwise be expressly provided by this Deed.

8. Unit Certificates

8.1 Issue of certificates

- (a) Each Unit Holder is entitled to be issued with a certificate for the Units registered in their name.
- (b) Where Units are held jointly, the joint holders are entitled only to a certificate in their joint names and delivery of that certificate to any one of the joint Unit Holders is sufficient delivery to all of those holders.

8.2 Form of certificate

A certificate may be in the form prescribed by the Trustee from time to time, and must be signed by the Trustee.

8.3 Surrender of certificates

- (a) When a Unit is transferred as permitted by this Deed, the certificate for that Unit, or evidence as to its loss or destruction satisfactory to the Trustee, must be given to the Trustee.
- (b) A Unit Holder must deliver a certificate, or evidence as to its loss or destruction, to the Trustee upon request following the redemption of the Unit, or to note a change in any special right, restriction or condition attaching to the Unit.

9. Redemption of Units

9.1 Redemption Price for Units

- (a) The redemption price of a Unit of a Class must be determined in accordance with the following formula:

$$\text{Redemption Price} = \frac{\text{Net Asset Value of a Class} - \text{Transaction Costs}}{\text{Number of Units on Issue in a Class}}$$

- (b) If the Trustee has determined that redemptions of Units will only take place on certain days ("Determination Date"), then the calculation of a Redemption Price must be made on the Determination Date.

- (c) The Redemption Price may be rounded as the Trustee determines to the nearest whole cent.

9.2 Redemption at request of a Unit Holder

If:

- (a) a Unit Holder requests the Trustee in writing in a form approved by the Trustee from time to time to redeem all or part of the Units held by that Unit Holder;
- (b) the Trustee determines that the Units may be redeemed without detriment or disadvantage to the other Unit Holders; and
- (c) the consent in writing of Unit Holders (including the Unit Holder whose Units are to be redeemed) holding more than 75% of the issued Units is obtained,

the Trustee must redeem those Units in accordance with this clause. If any request to redeem is received after 5:00 pm on the Business Day prior to the Determination Date, the Trustee will not be obliged to redeem those Units on that Determination Date.

9.3 Redemption

Subject to clause 9.8, the Trustee must redeem Units which are to be redeemed on the Determination Date and must within 30 days of a Determination Date:

- (a) pay to the relevant Unit Holder the Redemption Price for each Unit to be redeemed after deducting moneys owing by the Unit Holder to the Trustee on any account;
- (b) enter in the Register that the Unit is redeemed and that the Unit Holder ceases to be the holder of the Unit; and
- (c) where the certificate is returned to the Trustee, destroy the certificate or show on its face that the certificate has been cancelled.

9.4 Payment of Redemption Price

The Trustee may pay the Redemption Price:

- (a) by borrowing a sufficient sum to provide the Redemption Price;
- (b) by realising or selling any investment of the Trust to provide a sufficient sum to meet the Redemption Price;
- (c) out of funds on hand comprising the Assets of the Trust; or
- (d) by transferring to the Unit Holder having its Units redeemed Assets whose value determined in accordance with clause 15 is equal to the Redemption Price (or holding those Assets solely on trust for the Unit Holder).

9.5 Minimum holding

If compliance with a Redemption Notice would result in the Unit Holder holding Units the aggregate Redemption Price of which is less than the then current minimum application amount, the Trustee may treat the redemption notice as relating to the Unit Holder's entire holding of Units.

9.6 Notice irrevocable

A Unit Holder may not withdraw a notice given under clause 9.2(a) unless the Trustee agrees.

9.7 Order

Unless the Trustee decides otherwise, the first Units issued to a Unit Holder are the first redeemed or repurchased.

9.8 Trustee's right not to redeem

- (a) If on any Determination Date the Trustee has received valid requests for redemption for in excess of 10% of the Units of a Class on issue at that time, the Trustee may:

- (i) redeem those Units in whole; or
- (ii) satisfy the redemption requests in part by redeeming for each Unit Holder who has lodged a request for redemption that number of Units in that Class determined by the following formula:

$$U = \frac{T}{A} \times R$$

Where:

"U" means the number of Units in that Class to be redeemed in respect of a Unit Holder who has lodged a redemption request, rounded downwards to the nearest whole number;

"T" means that number of Units which represents 10% of the issued Units of that Class on the relevant Determination Date;

"A" means the aggregate number of Units of that Class in respect of which requests for redemption have been received on the relevant Determination Date; and

"R" means the number of Units of that Class the relevant Unit Holder has requested be redeemed on the relevant Determination Date.

- (b) At any time the Trustee may suspend redemptions of Units of a Class if it is impracticable for the Trustee to determine Net Asset Value of that Class:

- (i) as a result of a closure or disruption to the efficient operation of any market in which the Assets of the Trust are traded; or
 - (ii) in the Trustee's opinion the realisation of Assets in the current market conditions would not reflect a value for the Assets which could be obtained in an orderly market.
- (c) Any requests for redemption received whilst redemptions are suspended under clause 9.8(b) will be deemed to have been received prior to 5:00 pm on the Business Day following the day that the suspension ceases.

10. Transfer of Units

10.1 Form of transfer

- (a) A Unit may, with the consent of the Trustee (in its sole discretion), be transferred by an instrument in writing.
- (b) The Trustee is not required to give any reason for disallowing a transfer or refusing to give consent.
- (c) The transfer must be in the form determined by the Trustee.
- (d) Every instrument of transfer must be executed by both the transferor and the transferee.

10.2 Transferor holder while registered

Until the name of the transferee is entered in the register as the holder of the Units:

- (a) the Trustee may deal with the transferor of the Units to be transferred; and
- (b) that transferor remains the holder of those Units.

10.3 Issue of new certificate

- (a) Upon:
 - (i) production to the Trustee of:
 - (A) a properly executed and stamped instrument of transfer; and
 - (B) the certificate for the Units to be transferred; and
 - (ii) compliance with the provisions of this Deed concerning the transfer of the Units,
- the Trustee must:

- (i) enter the name and address of the transferee as shown in the transfer in the Register as the holder of the Units transferred;
 - (ii) cancel the Unit certificate in the name of the transferor;
 - (iii) issue a new certificate to the transferee if it so requires for the Units transferred; and
 - (iv) if all of the Units comprised in the original certificate have not been transferred, issue to the transferor a new certificate for the balance of the Units comprised in the cancelled certificate.
- (b) If a certificate is claimed to be lost or destroyed, the Trustee may dispense with production upon receiving evidence satisfactory to it of that loss or destruction.

11. Transmission of Units

11.1 Death of a Unit Holder

- (a) If a Unit Holder dies, the survivor (where the deceased was a joint holder), or the legal personal representative of the deceased (in all other cases), is the only person recognised by the Trustee as having any title to or interest in the Units held by that holder.
- (b) The Trustee must be given all evidence it may require to enable it to verify the validity of the appointment of a legal personal representative.

11.2 Election by representative

- (a) Once all evidence required by the Trustee under clause 11.1(b) has been provided the legal personal representative:
 - (i) may elect in writing to be registered as the holder of the Unit; and
 - (ii) is entitled to become registered as the holder of the Unit by transmission and the Trustee must make an entry to that effect in the register.
- (b) Where an election under clause 11.2(a) is not made:
 - (i) the provisions of this Deed relating to the transfer of Units apply as if the death of the Unit Holder had not occurred and the person entitled will continue to be the Unit Holder; and
 - (ii) a person nominated by the Unit Holder under a valid testamentary disposition may become registered as the transferee of the Unit;

11.3 Rights on transmission

A person entitled to a Unit by transmission may receive and give a good discharge for all moneys payable for the Unit but, except as otherwise provided in this Deed, is not entitled to any other rights or privileges of a Unit Holder unless and until that person becomes registered for the Unit.

12. Income and Distributions

12.1 Determination of income

- (a) The Trustee may determine whether a receipt or outgoing is to be regarded as being on account of capital or income or partly on account of one and partly on account of the other.
- (b) In determining the income of the Trust for a Financial Year the Trustee may, so far as is reasonably possible, exercise the powers given to it under clause 12.1(a), so as to minimise the liability to income and capital gains tax of the Unit Holders.
- (c) If the Trustee fails to make a determination under clause 12.1(a) prior to midnight on 30 June in a Financial Year, the amount of Section 95 Income for that year in relation to the Trust is to be taken to be the income of the Trust for the purposes of this Deed.
- (d) The Trustee may determine that an amount is Non-Assessable Income for that year in relation to the Trust and the Trustee may, as it considers appropriate, distribute the Non-Assessable Income to the Unit Holders under clause 12.3.

12.2 Accumulation of income

- (a) The Trustee may before the end of a Financial Year resolve to accumulate a part of the income of the Trust for that Financial Year:
 - (i) to recoup any losses of the Trust in any prior Financial Year; or
 - (ii) as reserves to meet contingencies, to provide for repairs or maintenance, for depreciation or for any other purpose.
- (b) The Trustee may pay tax for an accumulation out of the amount accumulated or out of capital.

12.3 Distribution of income to Unit Holders

- (a) The income of the Trust for a Financial Year is distributed to the persons who at midnight on the last day of the Financial Year are the Unit Holders in proportion to the Units registered in their respective names.

- (b) The Trustee may determine that a part, up to 50%, of that distributed income is to be retained by the Trustee ("retained moneys") which must be dealt with under clause 12.4.
- (c) If the Trustee has not prior to midnight on 30 June of a Financial Year resolved to distribute the remaining income due to a Unit Holder under clause 12.1, that income must be credited to a separate account in the books of the Trust in the name of the Unit Holder so that those moneys will be a debt due to the Unit Holder at call and will not bear interest.

12.4 Retained moneys

The following provisions apply to retained moneys:

- (a) the Trustee must set aside the retained moneys in separate accounts in the names of the Unit Holders;
- (b) interest will not accrue on retained moneys;
- (c) moneys standing to the credit of a retained moneys account is a debt due to the Unit Holder which is payable at the earliest of:
 - (i) the Termination Date;
 - (ii) at any time the Trustee determines; and
 - (iii) for a particular account, upon the Unit Holder giving at least six months' notice in writing to the Trustee requiring payment;
- (d) retained moneys may be invested or otherwise dealt with by the Trustee in the same manner as the Trustee is authorised to invest or deal with the Assets;
- (e) income derived from retained moneys is part of the income of the Trust; and
- (f) the amount from time to time standing to the credit of the retained moneys account is to be taken into account as a debt due by the Trust in determining the value of the Assets or the value of a Unit where that valuation is to be made under a provision of this Deed.

12.5 Interim Distributions

The Trustee may determine to make interim distributions to Unit Holders of the estimated income of the Trust. If the Trustee determines to make an interim distribution:

- (a) the Trustee shall determine the Distribution Period to which the proposed distribution relates;
- (b) the Trustee shall determine income of the Trust which is to be distributed;

- (c) the provisions of this clause 12 shall apply to such interim distribution as if a reference in this clause 12 to a "Financial Year" were a reference to the "Distribution Period" determined under paragraph (a) above; and
- (d) the amount of any interim distribution will be taken into account when determining the final distribution to be made to Unit Holders in respect of the Financial Year in which such interim distribution was paid.

12.6 Other Distributions

The Trustee may at any time distribute any amount of capital or income to Unit Holders pro rata according to the number of Units held as at a time decided by the Trustee. The distribution may be in cash or by way of bonus Units (which must be issued at the then current Issue Price determined by the Trustee).

12.7 Reinvestment

The procedure for reinvestment of distributions is to be determined by the Trustee and notified to Unit Holders from time to time.

12.8 Classes

The rights of a Unit Holder under this clause are subject to the rights, obligations and restrictions attaching to the Units which they hold.

13. Capital

13.1 Application of capital

- (a) All receipts, including bonus issues, dividends, sale of rights or other benefits received by the Trustee, which the Trustee considers to be in the nature of capital; and
- (b) any income which is not applied or distributed under the provisions of this Deed,

is not available for distribution as income of the Trust while the Trust continues undetermined, but must be added to and held as capital of the Trust upon the trusts of this Deed and applied, invested and dealt with under the provisions of this Deed.

13.2 Distribution of capital prior to Termination Date

The Trustee may in its discretion determine at any time that the whole or any part of the capital of the Trust be distributed or applied by the Trustee:

- (a) firstly in accordance with any special rights as to sharing capital attached to any Units; and
- (b) then for such persons who at the time of such determination are the Unit Holders in proportion to the Units registered in their respective names.

14. Categories of income and capital

14.1 Categories of income and capital

The Trustee may separately record the following categories of income or capital in the accounts of the Trust which under the Act:

- (a) are dividends:
 - (i) which are fully franked;
 - (ii) which are unfranked;
 - (iii) to which a foreign tax credit attaches; or
 - (iv) to which another separately identifiable taxation consequence or benefit may attach; and
- (b) is income or capital:
 - (i) which has an Australian source;
 - (ii) which has an ex-Australian source;
 - (iii) to which a foreign tax or other credit attaches;
 - (iv) which is exempt from tax or subject to differing rates of tax or tax treatment; or
 - (v) which has or gives rise to any other separately identifiable taxation consequence or benefit.

14.2 Other categories

The Trustee may identify and separately record and maintain in the books of accounts of the Trust, income or capital having or for which there is attached, individual or unique characteristics other than as referred to in clause 14.1.

14.3 Allocation of income or capital of a category

- (a) If the Trustee obtains the consent of all Unit Holders, the Trustee may resolve that:
 - (i) income of a Financial Year; or
 - (ii) capital which is distributed or accumulated based on a determination of the Trustee or by any provision of this Deed,

is the whole or part of the income or capital of a category, so that all or a part of that income or capital is specifically or separately allocated and identified in a distribution to a Unit Holder or in any accumulation.

- (b) If the Trustee does not obtain the consent of all Unit Holders, subject to any contrary rights of any particular class of Unit Holders, income or capital of a category is to be taken to have been distributed pro rata to all Unit Holders.

14.4 Allocation of expenses

Expenses and outgoings of the Trust may at the discretion of the Trustee be allocated against, and deducted from, income or capital of any one or more categories.

14.5 Effect of allocation on categories of income

If the Trustee does not exercise its discretion in clause 14.4, outgoings and expenses of the Trust for a Financial Year must be allocated:

- (a) firstly, against and deducted from income which is not income of a category; and
- (b) secondly, against any income of a category to which a tax credit, rebate or exemption does not attach; and
- (c) thirdly, against the remaining income.

14.6 Distributed income retains categorisation

Income or capital to which a Unit Holder becomes entitled and which can be identified as being of a category, retains its separate identity on passing to, or being received by, the Unit Holder or when the Unit Holder otherwise becomes entitled to it.

15. Valuation of Assets

15.1 Valuation of Assets and liabilities

- (a) The Trustee may at any time, cause the valuation of any Asset or determine the amount of any liability.
- (b) In determining whether a valuation accurately reflects the current value of an Asset, the Trustee is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of Assets.
- (c) The Trustee may determine valuation methods and policies for each category of Asset and change them from time to time.
- (d) Each Asset must be valued at its market value unless the Trustee determines:
 - (i) there is no market in respect of the Asset; or
 - (ii) the market value does not represent the fair value of the Asset.

15.2 Currency conversion

Where it is necessary for any purpose to convert one currency into another, the Trustee shall determine the time and the manner of that conversion.

15.3 Net Asset Value

The Trustee may determine the Net Asset Value of a Class at such times as it deems appropriate.

16. Payment to Unit Holders

16.1 Means of payment

Subject to clause 12.3(b), a requirement in this Deed to distribute, pay, apply or set aside any amount for a Unit Holder may be satisfied by the Trustee in any one or more of the following means:

- (a) with the consent of the Unit Holder, by placing the amount to the credit of the Unit Holder in a 24 hour call account;
- (b) by drawing a cheque for the amount made payable to the Unit Holder or paying the money into a bank account in the name of the Unit Holder;
- (c) with the consent of the Trustee, by paying the amount by cheque or in cash to a third party at the direction of the Unit Holder;
- (d) by applying all or part of the amount in or towards satisfaction of moneys owing by the Unit Holder to the Trustee on any account;
- (e) if the Trustee in its discretion thinks fit, by transferring any of the Assets in specie to the Unit Holder on receiving in cash the difference between the amount to which the Unit Holder is entitled and the value of that Asset determined under clause 15;
- (f) if the Trustee resolves and the Unit Holders consent, by issuing Units to Unit Holders entitled to that amount as though the amount not distributed had been paid to them first, and then paid to the Trustee as consideration for the issued Units. The Trustee may determine the number of Units to be issued, the terms relating to those Units and the Issue Price for those Units; or
- (g) by setting the amount aside to a separate account in the books of the Trust in the name of the Unit Holder following which those moneys will be a debt due to the Unit Holder at call and will be interest free.

16.2 Payment by cheque

Moneys payable by the Trustee to a Unit Holder by cheque may be sent through the post to the registered address of the Unit Holder.

16.3 Unit Holder under a legal disability

- (a) Any share of income or capital available for distribution, including as Units issued under the provisions of clause 16.1(f), which is payable to a minor or a person under some other legal disability, may if the Trustee decides, be held by the Trustee under a separate trust for the minor or other person under a legal disability, until that person has attained the age of eighteen years or ceases to be under a legal disability.
- (b) The following provisions apply to that separate trust:
 - (i) if the person entitled dies before attaining the age of eighteen years or ceasing to be under a legal disability, that interest or Units and accumulated income must be paid to or held for the personal representative of that person;
 - (ii) the Trustee may pay or apply that share of the income or capital available for distribution for the maintenance, education or benefit in life of that person and may pay it to a trustee for, or to a guardian of, that person or to any other person as trustee for that person without being bound to see to its application;
 - (iii) any money, Units or property held by the Trustee under the provisions of this clause 16.3 must be held by it on a separate trust and must not be included as part of the Assets; and
 - (iv) the income arising from the property and investments held on that trust is not to be treated as part of the income of the Trust.
- (c) The provisions of this clause 16.3 apply as though the Units, interests or retention of income are a share in the amount available for distribution to that minor or person under a legal disability.

17. Statements and accounts

17.1 Accounting records

The Trustee must:

- (a) establish and maintain proper books of account which accurately record all receipts and outgoings of the Trust; and
- (b) separately record all income and capital of different categories or classes as referred to, or provided for, in this Deed.

17.2 Financial statements

The Trustee must cause financial statements to be prepared by a qualified public or chartered accountant, including a profit and loss account and a balance sheet as at the end of each

Financial Year, certified by that accountant to be a true and proper statement of the affairs of the Trust in accordance with generally accepted accounting principles and setting out all:

- (a) income of the Trust;
- (b) capital of the Trust;
- (c) costs and disbursements and other outgoings paid or payable out of the Trust and chargeable against income;
- (d) capital expenditure and liabilities chargeable to capital;
- (e) investments and money comprised in the Trust;
- (f) amounts held in the accumulated income account;
- (g) amounts distributed by the Trustee to Unit Holders; and
- (h) amounts held in retained moneys accounts under clause 12.4.

The Unit Holders may inspect those statements and the books of account for the Trust.

17.3 Auditor

- (a) Unit Holders holding 51% or more of the units may by a written resolution signed by them require that an auditor be appointed to:
 - (i) examine the accounts of the Trust;
 - (ii) ascertain the correctness of any financial statement for the Trust; and
 - (iii) enquire into the financial affairs of the Trust as required.
- (b) The Auditor will be:
 - (i) named in the resolution, or if not, appointed by the Trustee;
 - (ii) entitled to access to the accounts and other records of the Trustee for the Trust; and
 - (iii) entitled to be given any information and explanations requested.
- (c) The costs of the Auditor are to be paid out of the Trust.
- (d) The Trustee may terminate the services of the Auditor.

18. Retirement, removal and appointment of Trustee

18.1 Retirement and removal

- (a) The Trustee may be removed from office as provided by law or upon the passing of a Special Resolution of Unit Holders.
- (b) The Trustee may retire by three months' written notice to the Unit Holders, but its retirement will only be effective when a new Trustee's appointment is complete under clause 18.6(a).

18.2 Appointment

The Unit Holders may appoint a new Trustee by Special Resolution of Unit Holders.

18.3 Restriction on appointment

The power of appointing a new Trustee may not be exercised in favour of any person who is, at the time the power is exercised, the beneficial holder of a Unit, other than any person who is a "special trustee" within the meaning of that term in section 33(1) of the *Duties Act 2000* (Vic).

18.4 Provisions on appointment

The place of a Trustee or Trustees who have retired, resigned or been removed, may be filled by a sole appointment or by the appointment of more than one new Trustee.

18.5 Transfer of records and property

Upon the resignation, retirement or removal of the Trustee, the Trustee must promptly, at the expense of the Trust:

- (a) hand to the new Trustee all books, records, documents and other property of or relating to the Trust;
- (b) do all things necessary to transfer the legal title in the Assets to the new Trustee;
- (c) sign authorities and give directions reasonably required by the new Trustee to give possession or control of any part of the Trust in the hands of third parties; and
- (d) give any assistance reasonably required by the new Trustee to put the new Trustee into full knowledge of the affairs of the Trust.

18.6 Deed binding on a new Trustee

- (a) An appointment of a new Trustee is not complete until the new Trustee covenants by deed to be bound by this Deed.

- (b) Unless it is otherwise required by law for a change of Trustee to be effective, it is not necessary for the retirement of a Trustee or the appointment of a new Trustee to be effected by a registered deed.

18.7 Vacation of office

The office of Trustee is terminated and vacated:

- (a) if the Trustee, being an individual, is found to be of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (b) if the Trustee becomes bankrupt or makes any arrangement or composition with creditors generally; or
- (c) if the Trustee, being a company, enters into liquidation, whether compulsory or voluntary (not being a voluntary liquidation for the purposes of amalgamation or reconstruction), or has an administrator, receiver or official manager or receiver and manager appointed.

18.8 Release

When it retires or is removed, the Trustee is released from all obligations in relation to the Trust arising after the date it retires or is removed except that the Trustee is still obliged to vest the Assets in the new Trustee and to deliver all books and records relating to the Trust to the new Trustee.

19. Powers of Trustee

19.1 General power of investment

Subject to the provisions of this Deed, the Trustee has all the powers that it is possible to confer on a trustee and has all the powers that are incidental to ownership of the Assets from time to time as though it were the absolute and beneficial owner of those Assets.

19.2 Specific powers

Without limiting clause 19.1, the Trustee has the power to invest in, dispose of or otherwise deal with the Assets as the Trustee may determine in its absolute discretion and to borrow or guarantee (whether or not on security).

19.3 Power to delegate

The Trustee may authorise any person or persons to act as its delegate, to hold title to any Assets and to perform any act or exercise any discretion within the Trustee's power on the following terms:

- (a) the authorisation may be in the form determined by the Trustee;

- (b) the Trustee remains liable for the acts or omissions of a delegate;
- (c) the Trustee may include provisions in the authorisation to protect and assist those dealing with the delegate as the Trustee thinks fit; and
- (d) the delegate may be an associate of the Trustee.

19.4 Power to act despite personal interest

The Trustee may exercise or concur in exercising all powers and discretions given under this Deed or by law despite that it or any person being a director, member or Associate of the Trustee, has or may have, a direct or indirect interest in the mode or result of exercising a power or discretion or may benefit either directly or indirectly as a result of the exercise of a power or discretion.

20. Rights and liabilities of Trustee

20.1 Remuneration

The Trustee is entitled to remuneration for the Trustee's services:

- (a) in that sum as approved by a Special Resolution of Unit Holders;
- (b) out of the income or capital of the Trust;
- (c) whether by way of periodical fee, salary, commission or otherwise; and
- (d) net of any amount payable for GST on that remuneration.

20.2 Administration expenses

- (a) The Trustee may pay all costs, charges and expenses of administering the Trust out of the Assets whether from capital or income, as the Trustee decides.
- (b) If the Trustee is an accountant, solicitor or other person engaged in any profession, the Trustee is entitled:
 - (i) to be reimbursed for all costs, charges and expenses of administering the Trust incurred by the Trustee; and
 - (ii) to charge and be paid all usual professional charges for business transacted, time expended and acts done by the Trustee or any employee or partner in connection with the trusts of this Deed, including any acts which the Trustee, not being in any profession, could have done personally.

20.3 Indemnity

- (a) The Trustee acting in good faith is entitled to be indemnified out of the Assets for all liabilities:
 - (i) incurred by the Trustee relating to the execution of any powers, duties, authorities or discretions vested in it by virtue of this Deed;
 - (ii) arising in or about the investment and administration of the Assets;
 - (iii) incurred in the conduct and management of any business forming part of the Trust;
 - (iv) arising from the acquisition of any Assets under any contract entered into by the Trustee; and
 - (v) including all actions, proceedings, costs, claims and demands for any matter or thing done or omitted to be done concerning the Trust.
- (b) The right of the Trustee to be indemnified for any liability incurred by the Trustee is limited to the Assets in the hands of or under the control of the Trustee and does not extend to enable the Trustee to recover any loss or obtain reimbursement for any liability incurred from any Unit Holder or other person beneficially entitled to any Unit.

20.4 Other capacities

Nothing in this Deed restricts the Trustee or its Associates from:

- (a) dealing with the Trust or any Unit Holder;
- (b) being interested in any contract or transaction with the Trust or any Unit Holder or retaining for its own benefit any profits or benefits derived from any contract or transaction (provided that the person's interest in the contract or transaction or that of any Associate is disclosed to the Unit Holders before the contract or transaction is entered into); or
- (c) acting in the same or a similar capacity in relation to any other scheme,

subject to their acting at all times with good faith toward Unit Holders.

20.5 Release of power

- (a) Unless a power or discretion which may be exercised by the Trustee is required by the terms of this Deed to be irrevocable, the Trustee may release or revoke any power conferred upon it by this Deed.
- (b) Any other person upon whom any power is conferred by this Deed may release or revoke any power conferred upon them.

- (c) Upon the exercise of any release or revocation under this clause 20.5, the power to release or revoke is absolutely and irrevocably terminated.

20.6 Unfettered power

Where in this Deed the Trustee is entitled to exercise a power or a discretion, that power or discretion is an absolute unfettered power or discretion and, except as provided in this Deed, no Unit Holder or other person is entitled to:

- (a) call into question the exercise of that power or discretion;
- (b) call into question the failure to exercise that power or discretion; or
- (c) require the Trustee to assign any reason for its exercise of that power or discretion or failure to exercise that power or discretion.

20.7 Legal and other advice

- (a) The Trustee may take and act upon:
 - (i) the opinion of a solicitor or barrister in interpreting the provisions of this Deed or any document or statute, or any matter concerning the administration of the Trust or any other matter in connection with the Trust; or
 - (ii) the advice, statements or information of any bankers, accountants, auditors, valuers and other persons consulted by the Trustee who are in each case believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted and who are independent of the Trustee,without being liable to any Unit Holder for any act done by the Trustee in accordance with any opinion, advice, statements or information.
- (b) Nothing in this clause 20.7 prohibits or impedes the Trustee from applying to any court if the Trustee thinks fit.

20.8 Manager

The Trustee is not bound to act personally but may employ a manager or other person to transact all or any business required to be done or performed by the Trustee, including the investment activities of the Trust and the receipt and payment of money, and the Trustee may determine the remuneration to be paid to that person and be reimbursed out of the Trust for that remuneration.

20.9 Custodian Trustee

- (a) It is not necessary for Assets to be registered in the name of the Trustee.

- (b) Any Assets may, at the discretion of the Trustee, be registered in the name of a nominee without the necessity of disclosing that the nominee holds that Asset as nominee for and on behalf of the Trustee.
- (c) The Trustee has the same powers and discretions regarding any Asset so registered as if it were registered in its own name.

20.10 Documents of title

- (a) The Trustee may deposit the documents of title to any Asset with a solicitor, accountant, bank, trust company, investment or stock broker or like institution in any part of the world in which the Assets are invested or situated.
- (b) The Trustee is not liable or responsible for any loss not caused by its own fault which may occur relating to the documents of title so deposited.

20.11 Limitation of liability

- (a) Except to the extent that a loss arises out of the Trustee's fraud, gross negligence or breach of trust, the Trustee is not liable for any loss suffered by any Unit Holder or regarding the Trust.
- (b) The liability of the Trustee is in any case limited to the Assets.
- (c) The Trustee is not obliged to enter into any agreement, sign any document or assume any liability on behalf of the Trust, unless that agreement, document or assumption of liability includes a provision, satisfactory to the Trustee in its reasonable discretion, limiting the Trustee's liability under that agreement, document or assumption of liability to the amount which may be satisfied by the Trustee's right of indemnity out of the Assets.

21. Variation of Trust

21.1 Variation of Deed

Subject to clause 21.3, at any time prior to the Termination Date, this Deed may be altered, modified, varied, amended, revoked or added to (all of which are referred to in this clause 21 as a "variation") as follows:

- (a) variations may be effected by the passing of a resolution by the Trustee approving the variations;
- (b) a resolution signed by a duly authorised officer of the Trustee will be a variation to this Deed on the terms of that resolution;
- (c) following the passing of a resolution the Trustee may elect to enter into a deed or other document detailing the variation;
- (d) a variation which concerns:

- (i) a provision of clause 3;
- (ii) the issue, transfer or redemption of Units;
- (iii) the appointment or removal of a Trustee;
- (iv) a provision of this clause 21;
- (v) voting rights at meetings of the Unit Holders;
- (vi) a provision of clause 23; or
- (vii) a provision of clause 24.1,

is not effective unless the Unit Holders have by Special Resolution signified their consent to the proposed variation, on or before the instrument of variation is executed.

- (e) A variation may not:
 - (i) prejudicially affect the rights of a Unit Holder to income of the Trust previously set aside for it or held for its benefit; or
 - (ii) prejudicially affect the rights of Unit Holders, whether of a Class or not, to participate in the income or capital of the Trust in accordance with the provisions of this Deed,

unless the consent of the Unit Holder prejudicially affected or the consents of all Unit Holders whose rights are to be prejudicially affected are obtained at or prior to the time any such variation is made.

21.2 Time variation takes effect

If the requirements of this clause 21 have been complied with, the provisions of this Deed will be effectively altered, modified, varied, amended, revoked or added to, as the case may be, on the date specified in the resolution or, (if applicable) amending deed, or if no date is specified, the later of the date of the resolution, the deed or the date of any necessary approval.

21.3 No variation to clauses 6.7(a) and 18.3

The prohibitions contained in clauses 6.7(a) and 18.3 must not be altered, modified, varied, amended, severed or added to unless permitted by law.

22. Meetings of Unit Holders

22.1 Convening and adjourning a meeting of Unit Holders

- (a) The Trustee may whenever it thinks fit convene a meeting of Unit Holders.

- (b) The Trustee must convene a meeting of Unit Holders if required to do so by a requisition signed by or on behalf of Unit Holders registered as the holders in total of 50% or more of Units.
- (c) The Trustee may adjourn a meeting of Unit Holders, whether called by itself or the Unit Holders, to that date and time, being within 21 days of the date of the adjourned meeting, and at that place, as the Trustee may determine.

22.2 Notice of meetings

- (a) Not less than 7 days' notice must be given of every meeting of Unit Holders and any notice must be given to all Unit Holders specifying the general nature of the business to be transacted. The date of service of the notice is to be counted as the first day but the day of the meeting is not to be counted.
- (b) A meeting may be held at shorter notice, being at least twenty-four hours, with the consent of Unit Holders holding 75% or more of the Units entitled to receive notice and attend any meeting.
- (c) A meeting may be held at less than 24 hours notice with the consent of all Unit Holders entitled to receive notice and attend that meeting.

22.3 Appointment of chairman

- (a) At every meeting of Unit Holders the Trustee must nominate some person, whether a Unit Holder or not, to preside as chairman.
- (b) If there is an equality of votes, the chairman does not have a casting vote.

22.4 Determination of questions

Every question arising at a meeting of Unit Holders is to be decided in the first instance by a show of hands unless:

- (a) it is a question which under this Deed must be decided by the holders of a prescribed percentage or more of the Units, in which case a poll is to be taken; or
- (b) a poll is demanded under clause 22.5.

22.5 Calling a poll

A poll may be demanded by Unit Holders present in person or by proxy entitled to vote at meetings of the Unit Holders.

22.6 One vote per Unit

Upon a poll every Unit Holder present in person or by proxy, subject to any contrary special right, restriction or condition attaching to a Unit, will have one vote for every Unit held.

22.7 Giving of votes

Votes may be given either personally, by proxy, by attorney or, in the case of a Unit Holder which is a company, by a person appointed as an authorised representative of the company under the Law.

22.8 Proxies and representatives

- (a) Every instrument of proxy or appointment of a representative must be in the form prescribed by the Trustee or otherwise in a common or ordinary form and must be signed by the Unit Holder.
- (b) The instrument appointing a proxy must be deposited at the office of the Trustee not less than 24 hours, or any lesser period agreed to by the Trustee, before the time of holding the meeting or adjourned meeting (as the case may be) at which the person named as proxy proposes to vote.

22.9 Quorum

The quorum for a meeting is one Unit Holder, where there is only one Unit Holder, and otherwise 2 or more Unit Holders present personally or by proxy or by representative or attorney, who represent in total not less than 50% of the Units.

22.10 No quorum

- (a) If a quorum is not present within 30 minutes after the scheduled time for the meeting, the meeting is:
 - (i) if convened on the requisition of Unit Holders, dissolved; or
 - (ii) otherwise, adjourned to a place and time decided by the Trustee.
- (b) At any adjourned meeting, those Unit Holders present in person or by proxy constitute a quorum.

22.11 Resolutions binding

- (a) A Resolution by Unit Holders, or by a Class of Unit Holders, binds all Unit Holders or Unit Holders of that Class, whether or not they are present at the meeting.
- (b) No objection may be made to any vote cast unless the objection is made at the meeting.
- (c) The decision of the chairman on any matter is final.

23. Limitation on liability of Unit Holders

23.1 No partnership

Nothing in this Deed constitutes or is to be taken to constitute:

- (a) the relationship of principal and agent between the Trustee and the Unit Holders;
- (b) the relationship of partners between the Trustee and the Unit Holders; or
- (c) the relationship of partners between the Unit Holders.

23.2 No indemnity from Unit Holders

- (a) Despite any other provision of this Deed or any rule of law to the contrary, no Unit Holder is, whether because they hold Units or because of the relationship created by this Deed, under any obligation personally to indemnify the Trustee or any creditor of the Trustee in the event of there being any deficiency of the Assets as compared with the liabilities of the Trustee for the Trust.
- (b) The rights of indemnity of the Trustee or of any creditor are limited to recourse to the Assets.
- (c) A Unit Holder is not liable for any loss or damage incurred or suffered by the Trustee in acting as trustee of the Trust, or otherwise in connection with the Trust, to the extent to which the loss or damage exceeds any unpaid and outstanding consideration (if any) payable for issue of the Units held by the Unit Holder.
- (d) The Trustee expressly waives and releases all rights and remedies which it otherwise might have at law or in equity to recover money from a Unit Holder because of any right of indemnity or subrogation.

24. Termination of Trust

24.1 Termination of Trust

The Trust must wind-up and terminate on the first to occur of:

- (a) the date of termination which Unit Holders holding not less than 90% of the Units notify the Trustee in writing;
- (b) if at any time the Trustee considers it to be in the interests of the Unit Holders, the date the Trustee determines; or
- (c) 80 years from the date of this Deed.

24.2 Procedure on determination

The Trustee must on the Termination Date:

- (a) as soon as practicable sell, call in and convert into money the Assets;
- (b) pay out all liabilities of the Trust; and
- (c) pay the remainder, less all proper costs, disbursements, fees and other outgoings and less all proper provisions for future liability, to the Unit Holders (subject to any right, restriction or condition affecting the Units and the right to share in the capital of the Trust on the termination of the Trust) in proportion to the number of Units that they are registered as holders of at the Termination Date.

24.3 Postponement of sale

In winding up the Trust the Trustee may postpone the sale, calling in and conversion of any part of the Assets for the time it thinks desirable in the interests of the Unit Holders and is not responsible for any loss attributable to such postponement.

24.4 Provision for liabilities

In winding up the Trust the Trustee may make any provision it considers necessary to provide for any outgoings or liabilities (actual or contingent) of the Trust or any of the Assets before making any distribution to the Unit Holders, and subject to this, must hold the part of the Assets retained in trust for the Unit Holders otherwise entitled.

25. Notices

25.1 Address for Notices

Subject to the Trustee's right under clause 1.2(i), all notices or other communications required under this Deed to the Trustee must be:

- (a) in writing and in English;
- (b) addressed to the recipient at the address or facsimile number set out below or to any other address or facsimile number as a party may from time to time notify to the other:

- (i) to the Trustee:

Address:	Level 43 525 Collins Street Melbourne Victoria 3000
Attention:	The Company Secretary
Facsimile No:	+61 3 9649 7380

- (c) sent to the recipient by hand, telegram, prepaid post (airmail, if to or from a place outside Australia) or facsimile; and
- (d) signed by a person duly authorised by the sender.

25.2 Time of receipt

- (a) Without limiting any other means by which a party may be able to prove that a notice has been received by another party, subject to clause 25.2(b) a notice will be deemed to be duly received:
 - (i) if sent by hand, when left at the address of the recipient;
 - (ii) if sent by pre-paid post, 3 days (if posted within a country to an address in that country) or 10 days (if posted from one country to another) after the date of posting; or
 - (iii) if sent by facsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the recipient's facsimile number.
- (b) If a notice is served by hand, or is received by facsimile on a day which is not a Business Day, or after 5.00 pm (recipient's local time) on any Business Day, that notice will be deemed to be duly received by the recipient at 9.00 am (recipient's local time) on the first Business Day after that day.

25.3 Notices to Unit Holders

- (a) A notice, cheque or other communication required under this Deed to be given to a Unit Holder must be given in writing (which includes a facsimile transmission) and be delivered or sent to the Unit Holder at the Unit Holder's registered address or the facsimile number (if any) last advised to the Trustee for delivery of notices.
- (b) A notice, cheque or other communication sent by post is taken to be received 3 days after it is posted and a facsimile transmission is taken to be received one hour after receipt by the transmittee of confirmation of transmission from the receiving facsimile machine, and proof of actual receipt is not required.

26. General provisions

26.1 Waiver and exercise of rights

- (a) A waiver of a provision or of a right arising under this Deed must be given in writing signed by the party.
- (b) A waiver is effective only in the specific instance and for the specific purpose for which it is given.

- (c) A single or partial exercise of a right by a party does not preclude another or further exercise or attempted exercise of that right or the exercise of another right.
- (d) Failure by a party to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.

26.2 Counterparts

This Deed may be signed in counterparts and all counterparts taken together constitute one document.

26.3 Rights cumulative

The rights, remedies and powers of the parties under this Deed are cumulative and not exclusive of any rights, remedies or powers provided to the parties by law.

26.4 Consents and approvals

A party may give its consent conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this Deed expressly provides otherwise.

26.5 Jurisdiction

Each party irrevocably and unconditionally:

- (a) submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia;
- (b) waives any claim or objection based on absence of jurisdiction or inconvenient forum; and
- (c) agrees that a document required to be served in proceedings about this Deed may be served
 - (i) by being left at or delivered to its address for service of notices under clause 25; or
 - (ii) in any other way permitted by law.

26.6 Governing Law

This Deed is governed by and is to be construed under the laws of the State of Victoria, Australia.

Executed as a deed.

Signed sealed and delivered)
for and on behalf of)
Transurban Infrastructure)
Management Limited)
in accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by authority)
of its directors:)



Signature of secretary/director

PAUL G B O'SHEA

Name of secretary/director (please print)




Signature of director

Geoffrey Raymond Phillips

Name of director (please print)
Geoffrey Raymond Phillips

Signed sealed and delivered)
for and on behalf of Transurban)
Infrastructure Management Limited)
in accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by authority)
of its directors:)



Signature of secretary/director

PAUL G B O'SHEA

Name of secretary/director (please print)



Signature of director

Geoffrey Raymond Phillips

Name of director (please print)



Law Department
Wells Fargo & Company
MAC N9305-172
Sixth and Marquette
Minneapolis, MN 55479

June 21, 2006

Transurban (895) US Holdings LLC

Transurban (895) LLC

Transurban (895) Finance, Inc.

Transurban (895) Holdings, Ltd.

Transurban 895 General Partnership

DEPFA Bank plc, New York Branch

Re: Transurban (895) Collateral Agency and Account Agreement, Membership Interest Pledge Agreement, Security Agreement, and Guarantee and Security Agreement, each dated as of June 21, 2006

Ladies and Gentlemen:

I am Senior Counsel of Wells Fargo & Company, the parent corporation of Wells Fargo Bank, N.A., a national banking association ("Wells Fargo"), and have been requested by Wells Fargo to give this opinion in connection with its execution of: (a) the Collateral Agency and Account Agreement (the "Collateral Agency Agreement"), dated as of June 21, 2006, by and among Transurban (895) US Holdings LLC, as a borrower (the "Borrower"), Transurban (895) LLC, as a borrower ("T895"), Transurban (895) Finance, Inc., as a borrower ("T-Finance"), Transurban (895) Holdings, Ltd., as a borrower ("T-Holdings"), Wells Fargo, as Collateral Agent and Securities Intermediary, and DEPFA Bank plc, New York Branch, as Administrative Agent; (b) the Security Agreement (the "Security Agreement"), dated as of June 21, 2006, by and between the Borrower and Wells Fargo, as Collateral Agent; (c) the Guarantee and Security Agreement ("Guarantee and Security Agreement"), dated as of June 21, 2006, by and among T895, as a Grantor, T-Holdings, as a Grantor, T-Finance, as a Grantor, and Wells Fargo, as Collateral Agent; and (d) the Membership Interest Pledge Agreement ("Pledge Agreement," and together with the Collateral Agency Agreement, the Guarantee and Security Agreement, and Security Agreement, the "Agreements"), dated as of June 21, 2006, by and between Transurban 895 General Partnership, as Pledgor, and Wells Fargo, as Collateral Agent. Capitalized terms used herein and not otherwise defined herein will have the meanings assigned in the Collateral Agency Agreement.

In connection with the foregoing, I have made such legal and factual examinations and inquiries as I have deemed necessary or advisable for the purpose of rendering this opinion. In rendering the following opinions, I have relied, as to factual matters, upon representations included in agreements delivered at the closing of the Agreements, upon certificates and representations of officers of Wells Fargo, and upon certificates of public officials. I have assumed the genuineness of all signatures (other than the signature of Wells Fargo), the legal capacity of natural persons, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as certified, photostatic, or telecopied copies and the authenticity of the originals of such copies.

Based upon and subject to the foregoing and to such further limitations and qualifications stated below, it is my opinion that:

1. Wells Fargo is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America.
2. Wells Fargo has full power and authority to enter into and perform its duties and obligations as contemplated in the Agreements.
3. The Agreements have been duly authorized, executed and delivered by Wells Fargo.
4. No consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body having jurisdiction over Wells Fargo is required for the execution, delivery or performance of the Agreements, or the consummation by Wells Fargo of the transactions contemplated by the Agreements, except such consents, approvals, authorizations, registrations and qualification as have been obtained.
5. The execution, delivery and performance of the Agreements by Wells Fargo and the consummation of the transactions contemplated thereby do not and will not (a) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which Wells Fargo is a party or by which Wells Fargo is bound or to which any of the property or assets of Wells Fargo or any of its subsidiaries is subject or (b) result in any violation of the provisions of the charter, By-laws, or applicable resolutions of Wells Fargo or any statute or any order, rule or regulation of any court or government agency or body having jurisdiction over Wells Fargo or any of its properties or assets.
6. To the best of my knowledge after due inquiry, there are no actions, suits, proceedings at law or in equity, or investigations pending or threatened against the Trustee before any court, administrative agency or tribunal (i) asserting the invalidity of the Agreements (ii) seeking to prevent the consummation of any of the transactions contemplated thereby or (iii) that might materially and adversely affect the creation, organization or existence of the Trustee, or the authority or ability of the trustee to accept and perform the duties and obligations of the Trustee under the Indenture and Agreements. For purposes of the foregoing, I have not regarded any actions, proceedings or investigations "threatened"

unless the potential litigants or governmental authority has manifested to a member of the Wells Fargo & Company Law Department having responsibility for litigation matters involving the corporate trust activities of the Trustee present intention to initiate such proceedings.

7. The Agreements have been duly authorized, executed and delivered by Wells Fargo and constitutes a valid and binding obligation of Wells Fargo enforceable against Wells Fargo in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, receivership and similar laws affecting creditors' rights generally, and the rights of national banking associations specifically, and subject, as to enforceability, to general principles of equity and the discretion of the court, regardless of whether enforcement is sought in a proceeding in equity or law.

I advise you that I am admitted to practice in the State of Minnesota (the "State"), and do not purport to be an expert in or generally familiar with or qualified to express legal opinions based on the laws of any jurisdiction other than laws of the State and the federal laws of the United States ("Federal"). In giving these opinions I have assumed with your permission that the applicable laws of the State of New York do not differ in any material respect from applicable Federal and State laws. These opinions are further limited to such State and Federal laws in effect as of the date hereof.

This opinion is being furnished to you solely for your benefit, and for the benefit of any purchaser, assignee, participant or transferee with respect to the Agreements in connection with the execution and delivery of the Agreements. Except as specified herein, this opinion is not to be used, circulated, quoted or otherwise referred to for any other purpose without my prior express written consent.

Sincerely,

A handwritten signature in dark ink, appearing to read "James D. H. Loushin", is written over a horizontal line.

James D. H. Loushin
Senior Counsel
Wells Fargo & Company

K. LEGAL OPINIONS